

Protection orders and shelters

Country visits information

Summary of priority issues

Key interpreting factors:

- Low and middle income countries may provide different kinds of solutions than higher income countries, due to both cultural and economic barriers, and lack of welfare and specific legislation on gender based violence
- In the experience of country visits, protection orders have been analyzed more specifically only in recent times
- Difficulties in identifying the “status of victim” and recognizing all forms of violence against women
- Issue of international standards: perceiving the provision on shelters and protection orders as a Government’s primary obligation/ Need to implement existing international, national or sub-national policies, legislation and landmark jurisprudence on women’s shelters and protection measures
- The most common issue is the lack of: i) enforceability of protection orders; ii) State-run shelters facilities; iii) alternative housing and long-term accommodation strategy; iv) trainings for public officers
- In cases of domestic violence, police routinely dismiss complaints, either refusing to believe the woman’s allegations or failing to recognize intra-family violence as a crime. Such biased attitudes among police frequently mean that women complainants are turned away and, at times, even intimidated or warned against attempting to file charges

Africa

Priority issues include:

1. Accountability for gendered crimes is the exception rather than the norm also due unavailability of legal aid or assistance and Government-run specialized women’s shelters
2. Lack of State’s capacity to provide protective measures to women facing violence; lack of support to civil society in setting up and running shelters; protection orders are not immediately available to the victim of VAW/absence of enforceability
3. Lack of an adequate number of women’s shelters and longer-term accommodations for abused women, especially in rural areas. In addition, women who seek State protection are often directed to institutions that do not have the expertise and specialization necessary to address the needs of women victims of violence
4. Cultural stereotypes and gender based barriers to women seeking out shelters and protection measures; women seeking protection are turned down and told to go back to their abusive partner or communities; the attitude of denial of domestic violence, coupled with the absence of reporting, accountability and protection mechanisms further exacerbates this pervasive form of violence against women; prostitutes, internally displaced persons, refugees and undocumented migrants has been reported to be even more discriminated, causing secondary victimization
5. Almost non-existence of psychosocial or counseling services for women survivors of violence
6. Eliminate Police-Mistreatment of and Bias Against Female victims of Violence.
When women who have suffered sexual or domestic violence first confront the law enforcement system at police stations they often encounter abusive treatment and rejection of their complaints. Women who have been raped or otherwise sexually assaulted frequently find that they are insulted and treated as if they were the guilty party, not the victim. Rather than register and investigate charges of rape, some police officials impugn the veracity of such complaints and accuse women of fabricating charges

7. No policy guidelines across the health, psychosocial, or legal sectors mandating coordinated, prompt and supportive services to victims
8. Almost non-existence of psychosocial or counseling services for women survivors of violence
9. Survivors are often rejected by their families, stigmatized and systematically denied justice and the compensation
10. Extreme sexual violence used during the armed conflicts seems to have eroded all protective social mechanisms
11. Lack of support to civil society in setting up and running shelters to protect women and children at risk of violence;
12. Victims of domestic violence are not provided with free medical treatment, including a free medical certificate documenting injuries suffered

Mission to South Africa (4 to 11 December 2015), p. 9	A/HRC/32/42/Add.2
Mission to Sudan (13 to 24 May 2015), p. 13	A/HRC/32/42/Add.1
Somalia (December 2011), p. 37	A/HRC/20/16/Add.3
Zambia (December 2010, p. 42	A/HRC/17/26/Add.4
Algeria (November 2010), p.43	A/HRC/17/26/Add.3
Democratic Republic of Congo (July 2007), p. 53	A/HRC/7/6/Add.4
Ghana (July 2007), p. 54	A/HRC/7/6/Add.3
Algeria (January 2007), p. 44	A/HRC/7/6/Add.2

Asia-Pacific

1. Insufficient number of shelters and safe houses, both State and non-State, and long term reintegration opportunities
2. Issues related to criminal justice system: i) lack of enforceability of protection measures and inadequate pecuniary and detention sanctions against perpetrators; interpretation of preventive detention laws; reconciliation committees and family reconciliation committees prior to taking any of the protective measure; (ii) lack of privacy and dignity of victims and their families; iii) the payment of financial compensation by the perpetrator or his family for acts of violence against women, in lieu of legal remedies, is a recurrent concern vis-à-vis the formal and informal justice systems; iv) need to ensure that protection is provided free of cost for the victim, if necessary; need to allow for the provision of protection orders for unmarried women victims of violence, and establish suitable procedures for women living in the provinces and who have no access to the courts; v) women experience obstacles in gaining access to justice and mechanisms of redress and are also victimized and exposed to further risk of violence through the denial of redress in the context of informal trials or negotiations between families and community leaders; vi) lengthy criminal procedure lack of a specific definition of domestic violence and related penalties and protective measures in existing legislation; lack development of national data collection systems concerning protective and preventative measures
3. Issues related to police and protection officers: i) lack of sufficient training, sensitivity and resources, especially for police officers dealing with cases of domestic violence (general failure in registering and investigate complaints); ii) patriarchal attitudes of police officers, prosecutors, judicial officers and other relevant civil servants; iii) discrimination, perpetrated by police officers, public representatives and community members, with regard to access to services

4. Issues related to shelters' management: i) weak management abilities of shelter's staff and the long-term reintegration and support that is provided to women; ii) shelters used in the past for pretrial detention, owing to the lack of female pre-trial facilities; iii) children living with their mothers are forced out of school for the entire duration of the mother's stay, without being offered any suitable alternatives.
5. Issues related to cultural barriers in perceiving women's need of protection: i) shelters are viewed by many as institutions that encourage women to leave home; to behave immorally and outside of what is traditionally considered "acceptable" in a conservative and religious society; or as prostitution houses; or establishments that are causing the break-up of families. Both the service providers and those seeking protection are stigmatized and shunned by society; ii) sometimes shelters become a long-term residential solution for women and their children with no option of returning home or to their communities; iii) in rural areas, some parents feel compelled to marry off their girl children as a "protective measure" against rape, and they resort to obtaining fake birth certificates to escape penalties for violating the law; iv) victims are often unable to benefit from it due to a lack of awareness of its existence; structural, institutional and procedural obstacles that the victims may face within the justice system; and the limited forms of services available; v) women living in various shelters are neither consulted nor included in the decisions concerning the types of recreational or income-generating activities provided to them, vi) inability of women to leave the shelter owing to lack of employment, family support or any means to support themselves and their children; vii) need to envisage placing restrictions, such as approaching certain locations, not only upon perpetrators but also upon victims; ix) violence perpetrated against women with disabilities in State-sponsored shelters; trafficking

Mission to Afghanistan (4 to 12 November 2014), p. 14	A/HRC/29/27/Add.3
Bangladesh (May 2013), p. 20	A/HRC/26/38/Add.2
India (April 2013), p. 22	A/HRC/26/38/Add.1
Papua New Guinea (March 2012), p.32	A/HRC/23/49/Add.2
Solomon Islands (March 2012), p.34	A/HRC/23/49/Add.1
Jordan (November 2011), p.38	A/HRC/20/16/Add.1
Kyrgyzstan (November 2009), p.47	A/HRC/14/22/Add.2
Tajikistan (May 2008), p.51	A/HRC/11/6/Add.2
Saudi Arabia (February 2008), p.52	A/HRC/11/6/Add.3

Europe

Eastern Europe

1. Lack of shelters and alternative housing and accommodation plans ensuring protection to women in the short and long-term, especially in rural areas
2. Cultural stereotypes and gender based barriers to women seeking out shelters and protection measures
3. Victims of domestic violence have to report cases of violence several times to the police before receiving a restraining order

4. Lack of enforceability of protection measures
5. Mandatory mediation in cases of violence against women/ privileging mediation and reconciliation over the protection of women's human rights
6. Poor monitoring and evaluation mechanisms carried out by public authorities
7. Issues in getting recognized the 'status of victim'
8. Police officers in rural areas still issue 'warning letters', devoid of any legal value, through which perpetrators commit not to exercise violence against their partner
9. Cases of violence tend therefore not to be prosecuted in most instances; protection orders are not granted
10. Lack of free, sustainable and state supported services for women victims of violence including a free 24/7 helpline, emergency shelters and support centres, legal and medical assistance, psycho-social support and rehabilitation measures accessible to all women in the country, without discrimination
11. Issue of trafficking

*The current situation of Bosnia, Croatia and Moldova is more reflected among the priority issues concerning Western

Georgia , p. 6	
Azerbaijan (December 2013), P.18	A/HRC/26/38/Add.3
Bosnia and Herzegovina (October - November 2012) p. 28	A/HRC/23/49/Add.3
Croatia (November 2012) p. 23	A/HRC/23/49/Add.4
Moldova (July 2008), p.49	A/HRC/11/6/Add.4

Western Europe

1. Lack of enforceability of protection orders and violation of legal procedures during in-court proceedings, in particular regarding witness protection and confidentiality; the failure to seek forfeiture of criminally derived assets; and the failure to award compensation to victims
2. Strengthening existing legislation, such as the criminalization of breaches of forced marriage protection orders; prioritizing safety and empowerment measures over prosecution; and providing a package of specialist services, including safe accommodation, as well as practical and emotional support.
3. Lack of funding and devolution of power to local authorities is having a negative impact on the provision of services to women victims of violence
4. Issues related to lack of sufficient funding, territorial allocation and long-term accommodation strategy
5. Creating and maintaining a strong and sustained network of specialist women-centred services that provide prevention, protection and support services
6. Effective remedies must guarantee the rights of women to access both criminal and civil remedies, and the establishment of effective protection, support and rehabilitation services, including reparations
7. Legal gap in the areas of child custody and include relevant provisions relating to protection of women who are the victims of domestic violence
8. The Governments should take the necessary measures to ensure that shelters operate according to international and national human rights standards and that accountability mechanisms are put in place to monitor the support provided
9. In some cases legislation is characterized by fragmentation, inadequate punishment of perpetrators and lack of effective redress for women victims of violence

Mission to the United Kingdom of Great Britain and Northern Ireland (31March-15 April 2014), p.17	A/HRC/29/27/Add.2
Italy (January 2012), p.35	A/HRC/20/16/Add.2

Latin American and Caribbean Group (GRULAC)

1. Lack of: i) enforceability and implementation of protection measures, including restraining or barring orders for perpetrators; ii) sufficient shelters facilities; lack of access both to criminal and civil remedies; iii) differentiated and appropriate protection or assistance to women victims of violence; iv) privacy and dignity of victims and their families at all stages of the criminal justice process; v) adequate training of law enforcement officials to register and investigate complaints and support prosecutions (weaknesses in the criminal justice system); vi) comprehensive law on violence against women that criminalizes all forms of violence and encompasses issues relating to prevention, protection, victim empowerment and support, including the availability of remedies for survivors and adequate punishment for perpetrators
2. The pervasiveness of patriarchal attitudes in the law enforcement and justice system, coupled with a lack of resources and insufficient knowledge on existing applicable legislation, led to inadequate responses to cases of violence against women and the persisting social acceptance of such acts
3. High-risk cases involving women linked to, inter alia, murderers, organized crime and gangs, to shelters, creating extreme vulnerability both for victims and shelter's personnel
4. Lack of State-indicators on the State response to violence against women, illustrating the realization of rights through prevention and protection measures
5. Need to: i) increase and enhance access to justice for women by improving the system for criminal investigation and protection, by including forensic expertise, enhancing court proceedings to eliminate impunity for perpetrators and adequately punishing public officials who do not exercise due diligence in those proceedings; ii) allocate adequate budgetary and human resources to ensure effective implementation and monitoring mechanisms
6. Issue of trafficking

Honduras (1-8 July 2014), p.15	A/HRC/29/27/Add.1
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El Salvador (March 2010), p.45	A/HRC/17/26/Add.2
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North America

- Lack of legally binding federal provisions providing substantive protection against or prevention of acts of violence against women, combined with inadequate implementation of some laws, policies and programmes, resulting in the continued prevalence of violence against women and the discriminatory treatment of victims, with a particularly detrimental impact on poor, minority and immigrant women.
[However, on migrants: victims of domestic violence who are the child, parent, or current/former spouse of a United States citizen or a permanent resident and are abused by that person may be eligible to apply for a green card without needing the abuser to file for immigration benefits on their behalf]
- The police often fail to respond to reports of IPV and/or violations of protection orders; police officers encourage informal resolution between the parties instead of arresting perpetrators
- Lack of meaningful standards for enforcement of protection orders and impose consequences for a failure to enforce
- Lack of federal and state accountability for the investigation and prosecution of violent crimes against Native-American women; many States do not recognize or enforce tribal protection orders

United States of America (January-February 2011), p. 40	A/HRC/17/26/Add.5
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Georgia (9 June 2016, A/HRC/32/42/Add.3)

4. The Rapporteur visited the Kakheti region, where she met with the Governor of the region, inhabitants of the Kabala Municipality, as well as civil society organizations and the Women's Elderly Council in the village of Duisi (Akhmeta Municipality, Pankisi Gorge). She visited the Shida Kartli Region and a settlement for IDPs in the village of Skra, where she met with internally displaced women. She also visited a shelter in the city of Gori and would like to thank women survivors of violence, who shared their experiences with her throughout the visit.

38. The Rapporteur was also informed that, in particular in rural areas, many women do not own houses and live in the husband's or his family's house. Despite the amendment made to the Code of Administrative Procedure, which includes the removal of the perpetrator from the place of residence of the victim, the mandate holder noted that this is not always applied and that women have few chances to find a new place to live. This was also confirmed by the women interviewed, who informed that **their chances to find a new place to live after their stay in a shelter were poor**, due to inter alia the lack of job opportunities and the low wages they would receive for low skilled jobs.

45. In 2014, the CEDAW Committee considered the combined fourth and fifth periodic reports of Georgia and adopted concluding observations. With respect to violence against women the Committee expressed concern at a) the growing number of women who are murdered by their husbands or partners and of women who are victims of other forms of violence, including psychological, physical, economic and sexual violence; b) the low rate of reporting of cases of sexual and domestic violence against women owing to stigma and fear of the perpetrator, as well as the lack of trust in law enforcement agencies; c) **the lack of State-funded crisis centres and shelters for women who are victims of domestic violence** and; d) the fact that women are sometimes subjected to virginity tests in violation of their right to privacy.¹ The CEDAW Committee also selected violence against women as its follow up item and requested a report on implementation of those recommendations within 2 years.

46. The Human Rights Committee noted concern about the underreporting of domestic violence, owing to gender stereotypes, **lack of due diligence by law enforcement officers** in investigating these cases and insufficient protection measures for victims, including insufficient enforcement of restraining and protective orders,² as well as a limited number of State-run shelters and support services.³

47. In 2015, the CEDAW Committee adopted its views under its Optional Protocol on the case X. and Y. v. Georgia (N° 24/2009),⁴ in which the victim and her daughter endured physical and sexual violence for a several years. Despite several complaints lodged at the police, no criminal charges were brought against the husband. In this case, the CEDAW Committee recognized that the State failed to act with due diligence, including to investigate and punish human rights violations, which constituted a violation of article 2 b) c) d)

¹ CEDAW/C/GEO/CO/4-5.

² A protective order is issued by a court (judge) or first instance through an administrative proceeding that determines temporary measures to protect a victim and valid for up to six months; a restraining order is issued by a police officer and must be approved by the court within 24 hours that determined temporary measures to protect a victim of domestic violence and is valid for up to one month (arts.10 and 12 of the Law on Domestic Violence).

³ CCPR/C/GEO/CO/4.

⁴ CEDAW/C/61/D/24/2009.

e) f) in conjunction with articles 1 and 5 a) of the Convention and GR 19 and recommended the adequate financial compensation to the victims. It also recommended: i) adequate support to victims of domestic violence including shelters and psychological support; ii) awareness raising campaigns; iii) ratification of the Istanbul convention; iv) mandatory training for judges, lawyers, prosecutors.

57. In relation to the Law on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence, the mandate holder welcomes the 2014 amendment, which includes physical, psychological, economic and sexual violence or coercion (article 3). Nevertheless, she is concerned about the scope of this law that does not cover violence against women outside the family, as well as its narrow definition of a ‘victim’ in article 4 (f): a person who suffered domestic violence as well as the determination of the ‘status of victim’ by law enforcement and judicial bodies, as well as the existence of a Group for Determining Domestic Violence Victim Status of the Interagency Council for Prevention of Domestic Violence, which is requested to ensure the identification and relevant response to cases of domestic violence. All of this results in the **impediment to women survivors of violence to have immediate access to the protection by the issuance of restraining/protective orders and/or the possibility to stay in a State-run shelter** – as victims without such status cannot stay in shelters.

63. Other amendments proposed include that the Court **mediation** will not receive disputes on cases relating to violence against women and domestic violence. In relation to mediation, interlocutors confirmed that mediation is still applied in cases of domestic violence. An amendment suggested that under the Administrative Procedure Code of Georgia, the restraining order will be valid since its issuance by a police officer and will not require the Court’s validation – as it is currently the case.

82. According to the article 8 of the Law on Domestic Violence, social services should implement assistance and support measures for victims of domestic violence (para. b) and should monitor the execution of protective and restraining orders (para. e). While noting the efforts of the Government, the Special Rapporteur notes that the current 250 social workers in service, as informed by the Government, and the limited resources allocated to perform their job do not seem to be enough to ensure an efficient implementation of the law. The Special Rapporteur also highlights the important role of teachers, doctors and social workers in the detection of cases of violence and the importance for them to be adequately trained.

83. The Special Rapporteur was informed that the Government run a free **hotline** operated by lawyers 24 hours a day 7 days a week for women victims of violence. The hotline provides the following services: crisis aid, legal advice, psychological aid, information and reference to the shelter or crisis centre and is available in Georgian and Russian. The mandate holder recognizes the State’s efforts but is concerned that such hotline is not yet available in the languages spoken by all the ethnic minorities, impeding them to report cases of violence and therefore to seek adequate protection.

84. A woman victim of violence – that has not/not yet received the ‘status of victim’ – can receive support in **crisis centres**, which are run by NGOs. The mandate holder welcomes the announcement that the first State-run crisis centre for women victims of violence will open in September 2016.

85. At the time of the visit, there were three State-run shelters in Georgia (Tbilisi, Kutaisi, Gori) operated by the State Fund for the Protection and Assistance of (Statutory) Victims of Human Trafficking, for victims of domestic violence, who have received the ‘status of victim’. The mandate holder highlights that women living in rural areas and escaping from their perpetrators have to leave their villages and communities to live in **shelters, mainly located in urban areas**.

86. She welcomed the announcement that a fourth State-run shelter for victims of domestic violence in the Kakheti region was opened,⁵ but stresses the estimation made by the Council of Europe taskforce that there is a need for over 437 places throughout the country⁶ and emphasizes the particular need in rural areas. She also recognizes the work done by civil society organizations, in the provision of protection services to women victims of violence and highlights the importance of the Government to cooperate and provide adequate financial and other support to them.

87. The mandate holder was informed that the duration of stay in a shelter is 3 months with a possible extension after assessment of the condition of the beneficiary. Despite Government indications that the contract can be extended multiple times, it was reported to the Rapporteur that it was done only in rare cases.

88. She is concerned that so far, **the ‘status of victim’ only recognizes victims of trafficking and victims of domestic violence** as recognised by the Law on Domestic Violence and that other women victims of violence remain out of the scope of the law and protection, which does not allow them to seek refuge in one of the State-run shelters. The mandate holder was informed that in some cases, the issuance of the status of victims takes time, thus leaving the victim without effective protection.

89. The mandate holder was informed that in numerous cases, **the victims of domestic violence have to report cases of violence several times to the police before receiving a restraining order.**⁷ For example, the mandate holder was informed that in 2013, the police was called in more than 5,447 cases of domestic ‘conflict’ but that only 212 restraining orders were issued.⁸ It was also reported that victims are not well informed by police officers, who sometimes do not explain the possibility to request a restraining order.

90. The Special Rapporteur welcomes the data shared by the Government showing the increasing number of restraining orders issued during the last years, 945 restraining orders in 2014 and 2607 in 2015 but highlights that they are valid for maximum one month and remains concerned about the data on law issuance of protective orders (92 in 2014 and 173 in 2015) which allows a long term protection to victims valid up to six months. This huge difference remains to be studied and properly addressed since underuse of longer-term protective orders indicates of their effectiveness and linkages between restraining and protective orders (see footnote 56⁹).

91. The Special Rapporteur was informed that **police** officers have benefitted from trainings and are now more proactive in the issuance of restraining orders. She also welcomes that more women have joined the police, because they can play an important role in the detection and provision of information to victims. She also welcomes that, generally, patrols of police are composed of one man and one woman to assess cases of domestic violence.¹⁰

⁵ The fourth shelter opened early April in the Kakheti region:

<http://georgia.unwomen.org/en/news/stories/2016/04/more-shelters-for-victims-of-domestic-violence-in-georgia>

⁶ http://www.wave-network.org/sites/default/files/04%20Georgia_0.pdf

⁷ The situation of human rights and freedoms in Georgia, op.cit.,p.431.

⁸ Background note provided by Union Sapari.

⁹ (footnote 56)A protective order is issued by a court (judge) or first instance through an administrative proceeding that determines temporary measures to protect a victim and valid for up to six months; a restraining order is issued by a police officer and must be approved by the court within 24 hours that determined temporary measures to protect a victim of domestic violence and is valid for up to one month (arts.10 and 12 of the Law on Domestic Violence).

¹⁰ U.S. Department of State, Country Reports on Human Rights Practices for 2014: Georgia,2014, para.6 and The Advocates for

92. Nevertheless, the mandate holder expressed serious concern about the persistence of stereotypes among the police and the fact that some **police officers in rural areas still issue ‘warning letters’, devoid of any legal value, through which perpetrators commit not to exercise violence against their partner,** highlighting that such letters do not ensure victims’ protection, and cannot hold a person responsible for past acts of violence committed.

93. The Special Rapporteur is also concerned that some cases of violence are still reported by the police as ‘family conflict’ and they do not apply an assessment of the lethality risk. She was informed that in numerous cases **the police do not provide adequate help and information on shelters or restraining orders to the victims of domestic violence and that in numerous cases, the investigations are halted when a victim withdraws her statement.**¹¹ The quality of documentations of cases of domestic violence by the police is reportedly not adequate, and there are weaknesses in the collection of evidence and drafting of the police reports, which can hinder the prosecution of perpetrators of violence.¹² The mandate holder was informed that despite the new obligation for the police to immediately notify the victim of domestic violence when the convicted perpetrator leaves the prison, the implementation of this new obligation was poor.¹³ All these elements may put the victim in danger of stronger attacks, including the killing by the perpetrator.

(g) Revise the Law on the Prevention of Domestic Violence, Protection of and Assistance to Victims of Domestic Violence and expand its scope to violence to violence against women

(h) Remove the restrictive legal and administrative determination of status of victim of domestic violence in order to ensure immediate availability of all protective measures (restraining and protective orders) and services (shelters) to victims of violence,

(k) Amend the current provision related to mediation to ensure that there is no mandatory mediation in cases of violence against women

(s) Elaborate and adopt the new National Action Plan for Combatting Domestic Violence and Implementing Measures for the Protection of Victims of Domestic Violence

(g) Increase the support to social workers who work on implementation of assistance and support measures for victims of domestic violence

(n) Analyse the efficiency of restraining and protective orders including the reasons of the significant differences between the high number of issuance of restraining orders and very low number of protective orders, and ensure that the restraining order are valid immediately after their issuance by a police officer,

(d) Increase the number, availability of, and services in, state-run shelters and crisis centres, in particular in rural areas and increase the number of social workers and the financial support allocated to them.

South Africa (14 June 2016, A/HRC/32/42/Add.2)

Human Rights, Assessment of domestic Violence, Laws, Policies, & Practices in Central & Eastern Europe & the Former Soviet Union, 2016, p.79.

¹¹ Background note provided by Union Sapari.

¹² Ibid.

¹³ Op.cit., note 5.

4. The Rapporteur visited several shelters in Pretoria, Johannesburg, and Cape Town, which provided her the opportunity to meet with women survivors. Throughout her visit, she also held large consultations with numerous civil society representatives and members from academic institutions. She wishes to acknowledge in particular the role that Masimanyane Women's Support Centre played in facilitating civil society meetings. She also visited the outskirts of both Khayelitsha and Diepsloot townships. Finally, she exchanged views with representatives of some United Nations agencies and programmes in the country.

43. The Domestic Violence Act (DVA) of 1998 replaced the Prevention of Family Violence Act and was meant to address high levels of domestic violence by, among other things, broadening the definition of domestic violence and recognising that abuse may take many different forms, including physical, sexual, emotional, psychological, verbal, or economic abuse; as well as intimidation, harassment, stalking, and damage to property. Furthermore, the DVA applies to people in a wide range of "domestic relationships" and includes same – sex relationships as well as extended families. The Act sets out what police must do when they arrive at a domestic violence scene and also provides for victims of domestic violence but also other persons on behalf of the victim to go to court and apply for protection orders. It allows for seizing any arms or dangerous weapons; having a peace officer accompany the complainant to a specified place to retrieve personal property; payments of emergency monetary relief, and restrictions on the respondent's contact with a child. Being gender neutral and insufficiently gender sensitive, the DVA disregards the structural inequality between men and women and focus on women and man equality as victims of domestic violence at the expense of women who are predominantly victims of such violence. Being a civil law, it does not typify domestic violence as a criminal offence.

46. The Protection from Harassment Act, 2011 provides for the issuing of protection orders against harassment committed outside of a domestic relationship. It defines sexual harassment widely, and even includes electronic harassment.

55. The Sexual Offences Courts were re-established in 2013 by the Department of Justice and Correctional Services. These courts provide specialized victim-support services to reduce the chance of secondary trauma for victims, the case-handling time and improve conviction rates. They have specially trained officials and equipment, a special room for victims to testify, private waiting rooms for adult and child witnesses. At the time of the visit, there were 43th Special Offences Courts. The Rapporteur was informed that these courts have been a game changer: before their establishment there was a 48% conviction rate for sexual offenses cases whereas in 2015, the rate had reached 71%¹⁴. The Department of Justice informed the Rapporteur that these courts would be rolled out as quickly as possible throughout the country in light of their huge potential. Draft Regulations¹⁵ that should improve their efficiency should soon be adopted aimed to provide for protective measures for victims to be available at designated courts and d focus on the needs of persons with disabilities.

67. The SR notes that CSOs not only have been working in close cooperation with the Government but have also provided for the majority of services without receiving appropriate compensation for a service from the Government. For example, most post-rape care is provided by CSOs which support victims in the immediate

¹⁴ The Rapporteur cautions against the misleading practice of reporting conviction based only on cases that went to trial, practice that she had experienced during her visit from state officials

¹⁵ https://jutralaw.co.za/media/filestore/2015/10/Draft_Regulations_relating_to_Sexual_Offences_Courts_2015.pdf

aftermath of rape, assist with adhering to post exposure prophylaxis to prevent HIV infection, counselling and preparation for testifying in court, as well as accompaniment to court¹⁶.

68. Funding of CSOs, including the ones running shelters, is provided by the DSD which covers only a small percentage of the organisation's operational costs. CSOs reported that the Government had been prioritizing prevention over services delivery, and that the DSD funding had been decreasing.

69. The DSD reported that there were 88 shelters in total in the country, mostly run by CSOs. Beside a clear insufficient number of shelters, in particular in rural areas and in/around townships and informal settlements, existing shelters struggle with funding and can only rely, in average, on 10% coverage of their operating costs by the DSD. Some important discrepancies exist in the funding allocated between and within provinces as well as in the range and quality of services delivery among shelters. For example, most shelters are not equipped to accommodate mothers with children or with boys older than 7 years or children with special needs or age or women drug users.

70. There is also an **acute need for longer-term accommodation for abused women once they leave first stage shelters**. Unfortunately, second-stage housing is virtually non-existent, at the exception of a few noteworthy projects such as a pilot programme run by Nonceba Family and Counselling Center in Khayelitsha which had started at the time of the visit. More permanent housing arrangements are also almost inexistent.

72. In relation to conduct of the police, and while good services does exist within the SAPS, **the Rapporteur heard repetitively that women seeking protection had been turned down and told to go back to their abusive partner or communities. Some police members do not believe rape survivors**, especially when they are young, and treat them badly. Treatment of groups of women at heightened risk of GBV, including women and girls with disabilities, LGBTI persons, prostitutes, refugees and undocumented migrants **has been reported to be even more discriminatory causing secondary victimisation**.

77. On the other hand, there has been some improvement in the reporting by police of domestic violence. The CSP which provides civilian oversight of the Police Service, is in charge of monitoring police stations' compliance with the DVA. Police non-compliance can have extremely serious consequence, as shown in an emblematic case where the victim, despite having obtained a protection order prohibiting her abusive husband from entering her home was raped by him. The victim successfully brought her case to court which confirmed that the failure to arrest the offender was the factual and legal cause of the rape and that it extended legal liability to police members who had failed to give effect to a protection order¹⁷. This case is emblematic of the lack of appropriate follow up by police to enforce protection orders which was reported to the Rapporteur throughout her visit.

80. In 2013/2014, 255 395 protection orders were applied for through the magistrate courts, but only 88 504 were ultimately made final, which represent 28%¹⁸. The Rapporteur was apprised of some issues faced by applicants of protection orders. When a victim applies for such order, the court decides whether to grant an interim protection order or to merely issue a notice informing the respondent to appear in court. In many cases, this means that the victim is sent back to a violent home without immediate effective protection. While the DVA encourages issuance of protection order with as little delay as possible, it was reported that the speed at which they are issued varies greatly depending on the courts. Another issue is the false assumption

¹⁶ <http://www.shukumisa.org.za/2015/11/16-days-of-discontent-day-7-undervaluing-care-work/>

¹⁷ *White v Minister of Safety & Security and Others*

¹⁸ <https://www.issafrika.org/crimehub/uploads/Shukumisa-16-Days-fact-sheet-DoJ.pdf>

by some police officers that at the time of the serving of the protection order, the applicant has to be present for identifying the respondent, while this is not a requirement under the DVA. Personal views and beliefs of magistrates were reported to come into play negatively towards the granting of protection order, as some view them as tearing families apart. Additionally, magistrates' behaviors are not always appropriate, intimidating applicants and questioning their motives. In case of the breach of a protection order, police officers often are not aware that they can arrest the perpetrator on site and that the breach constitutes in itself a criminal offence under the DVA.

(b) Study the efficiency of protection orders in order to improve them and to make them immediately available to the victim of vaw at risk of new violence. In particular, police should be instructed to conduct risk assessment and risk management to protect victim of immediate treats and to issue interim protection order.

(d) Operate a shift in SAPS so that it is instructed to encourage reporting of VAW and be assessed on the basis of the quality of services provided to victims and correspondently too remove the element of police performance indicators which penalizes any rises in the reporting of sexual offences;

(f) Ensure that the criminal justice system has the capacity – in human resources, skills, expertise, and funding – to deal efficiently and effectively with GBV, and in order to do so

- **make appropriate budget allocation to roll out the victim friendly rooms in police stations, the TTCs, FCLs and Sexual offenses courts in particular in rural areas and informal settlements;**
- **ensure the collaborative model of TTCs and sexual offenses court working in tandem which has led to increased conviction rates;**
- **require the NPA to require from prosecutors who abandon prosecution of a case to provide automatically for the reasoning to the complainant;**

(g) With respect to the judiciary:

- **provide mandatory training to, members of the judiciary, including prosecutors and judges, in particular at the magistrate courts level, on the CEDAW Convention and its Optional Protocol, General Recommendations and the Committee jurisprudence on VAW and increase mandatory training on GBV and gender-based stereotypes in general and on key national legislation, in particular the SOA and the DVA and its range of protective measures;**
- **ensure wide dissemination of progressive judgments, including from the Court of Appeal and Constitutional Courts, and jurisprudence from CEDAW;¹⁹**

(i) Improve the quality of services provided by police to victims of sexual and domestic violence;

¹⁹ (h) In relation to sexual violence in schools, require the DBE and SACE to act jointly in disciplining educators who have perpetrated such acts and to take disciplinary sanctions against teachers or principals who fails to report cases; make the list of sexual offenders teachers available to all public and private schools and design nationwide programme on sexual violence in schools and comprehensive human rights education;

- (j) **Scale-up delivery and state funding of services for victims, and in particular increase number of social workers who have been trained on GBV and psycho- trauma counseling;**
- (k) **Establish more shelters, in particular in rural areas and informal settlements, including shelters that can accommodate women or their children with disabilities, LGBTI persons, and mothers with sons of 6 years and above.**
- (m) **Prioritize the needs of VAW survivors in allocating public housing and in access to transitional housing;**
- (b) **Encourage the establishment of “femicide watches” in each of the 9 provinces and a “femicide watch” at the national level and analyse each case of femicide in order to identify any failure of protection with a view of improving and developing further preventive measures. The Gender Equality Commission should be entrusted with the compilation of data from the provincial level and be responsible for the national femicide watch.**

Sudan (18 April 2016, A/HRC/32/42/Add.1)

46. The first visit to the Sudan by a special rapporteur on violence against women, its causes and consequences took place in 2004, and was limited to a short visit to Darfur. It took place in the context of the mandate holder’s participation in the first African Regional Consultation on Violence against Women. In her report, the mandate holder called for investigations into all allegations of violence against women, the protection of witnesses and victims and the payment of compensation to survivors. She also recommended ensuring the security of civilians and introducing protection measures to reduce the ongoing risks of rape, beatings and abductions of women and girls when they move outside camps and villages for internally displaced persons. [...]

75. Within the Ministry of the Interior, efforts have been made since 2007 to set up child and family protection units and there are currently 20 such units operating throughout the country. The Director-General of the police has also issued a decree to ensure that medical services are free for women and children who are victims of violence.

94. Accountability for gendered crimes is the exception rather than the norm, due to the factors noted above, including the unavailability of legal aid or assistance and other support for victims, such as shelters and counselling, which make it even more difficult for victims to report such cases of violence.

111. Regarding the specific situation of internally displaced persons living in camps, the Government should introduce effective protection measures to reduce the risks of all manifestations of violence against women, both inside and outside the camps. Measures should include adequate lighting and security, geographically accessible police stations, and access to appropriate health care and schooling facilities, as well as adequate and accessible shelter and food. United Nations and donor agencies should be encouraged to assist the Government in providing such assistance.

122. The Special Rapporteur recommends that the donor community focus international assistance programmes on the empowerment of women and girls. Such programmes would include the promotion of women's rights and the eradication of violence against women through capacity-building projects for those involved in assisting and protecting women. Such programmes could be developed in parallel with the provision of infrastructure, such as shelters and centres that provide specialized integrated services for victims; protective measures against discrimination, harassment and violence.

Afghanistan (12 May 2015, A/HRC/29/27/Add.3)

4. The Special Rapporteur also visited the Badam Bagh women's prison in Kabul, a juvenile rehabilitation centre and the burn clinic of the regional hospital in Herat and two shelters.

12. In an effort to prevent harassment and the undermining of female police officers' authority by commanders and male police colleagues, and to integrate women as full, equal and respected professionals within the police force, the Ministry of Interior adopted the "Strategy for the Integration of Afghan National Police Female Personnel" in 2013. It outlines measures for recruiting more women and preventive measures to create an enabling environment for the protection of **police women** from sexual harassment and violence. Pursuant to Order No. 163, issued in March 2014, steps are under way to establish a commission tasked with drafting an action plan to operationalize the strategy. However, the strategy fails to incorporate a clear, detailed, confidential and enforceable complaints mechanism that could lead to either disciplinary action or, if warranted, criminal sanctions against perpetrators of harassment or abuse of authority.²⁰

44. Civil society is composed of both Afghan and international non-governmental organizations. While organizations working exclusively on women's rights are numerically few, they are dynamic and organized. The organizations working directly with victims of gender-based violence have to operate in secrecy, as they are viewed with hostility and victims are often perceived as criminals. For example, **shelters are viewed by many as institutions that encourage women to leave home; to behave immorally and outside of what is traditionally considered "acceptable" in a conservative and religious society; or as prostitution houses; or establishments that are causing the break-up of families. Thus both the service providers and those seeking protection are stigmatized and shunned by society.**

47. The United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) has been working in Afghanistan since 2002. The agency has provided technical and financial support to the Ministry of Women's Affairs and civil society in the management and operation of 13 women's protection centres and two family guidance centres, as well as in advocacy and awareness-raising to promote prevention of violence against women, operation of the provincial commissions for the elimination of violence against women and resource centres, and training of and coordination between stakeholders concerning legal reform.

53. The funding of shelters by international donors is crucial as a long-term solution to the housing needs of women and girls. In most developed countries, shelters are places of temporary refuge and support for women escaping violence. The situation of women in Afghanistan is somewhat different and women who

²⁰ Inputs provided by UNAMA on progress and existing gaps in the implementation of Security Council resolution 1325 (2000) for women and girls during 2013 and early 2014 in the areas of prevention, participation, relief and recovery and protection, dated 30 March 2014.

are forced to find shelter in a safe house risk finding themselves with no way out of their situations. **They do not have the option of returning home or to their communities and thus shelters become a long-term residential solution for women and their children.** As noted by the previous mandate holder, and confirmed during this visit, the difficulty of finding durable solutions for women who end up in a shelter is compounded by the societal attitude towards shelters, which to a large extent are regarded as places of doubtful reputation. **There are also concerns regarding the ability of shelters to provide protection,** the management abilities of staff and the long-term reintegration and support that is provided to women. Unfortunately, **some shelters have also been used in the past for pretrial detention, owing to the lack of female pretrial facilities.**

63. As regards to access to justice and accountability for gender-based crimes, while the legal framework provides for sufficient protection for violence against women, there are institutional, procedural and social obstacles limiting women's access to justice. In most instances, women do not use the formal justice system, for reasons including a lack of easy access to the justice system, the ineffective implementation of existing legislation and the overreliance on the informal justice system. During a meeting with representatives of civil society and local councils in Herat, the Special Rapporteur was informed that **shuras** often deal with cases of violence against women despite legislative measures such as the Law on the Elimination of Violence against Women and the existence of institutions with a legislative mandate to mediate such cases.

65. [...] As regards protection mechanisms, the main challenges include the **insufficient number of shelters and safe houses for women who are victims of violence and the lack of opportunities for women to be reintegrated back into their families and society.**

69. Victims of violence and representatives of civil society with whom the Special Rapporteur met highlighted the lengthy criminal procedure, the non-respect of protection measures and the inadequate pecuniary and detention sanctions against perpetrators.

78. [...] **The Government should increase the number of shelters for victims of violence against women; strengthen support services for victims, including counselling, medical and rehabilitation services [...]**

80. (c) **Assist in the review of protection mechanisms, including shelters, in order to find sustainable long-term housing alternatives for women in need of protection. Emphasis should be placed on the empowerment of women and girls through education, skills development and job creation.**

Honduras (31 March 2015, A/HRC/29/27/Add.1)

3. The Special Rapporteur had the opportunity to speak with the staff and women survivors of violence in three shelters and to hear the testimonies of women and girls in detention facilities. In La Ceiba, she visited a comprehensive centre for victims of domestic and sexual violence (Centro MAI), where she met with the staff working in the medical and legal units. [...]

36. As regards domestic violence, while there are legal provisions aimed at securing the safety of those accessing justice through **protection orders**, injunctions or other interim measures, the Special Rapporteur was informed that **perpetrators seldom abide by these provisions.** In theory, the latest amendment to

article 23 (8) of the Domestic Violence Act of 1997 protects the confidentiality of the concerned parties, but in fact it restricts victims' access to justice by preventing service providers from having access to information necessary to assist such clients with their cases.²¹ The Special Rapporteur also notes the absence of an effective witness protection programme and safe accommodation for those at risk of further violations.²²

66. Measures by which States can fulfil their due diligence obligation to protect women from violence include the **provision of services such as telephone helplines, health care, counselling centres, legal assistance, access to shelters, protection orders and financial aid for victims.**

68. In March 2014, the Inter-Agency Commission on the Implementation of the Domestic Violence Act, composed of representatives of the National Institute for Women, the Public Ministry, the Department of Health, the Central District Municipality, the National Human Rights Commission and civil society organizations, launched the Centre for Support and Protection of Women's Rights (CAPRODEM) in the city of Comayagua. The Centre offers orientation, medical, legal and **psychological assistance** to victims of domestic and intra-familial violence. The Special Rapporteur was informed of a protocol that outlines the procedures and practices to follow in providing comprehensive assistance to victims of domestic and intra-familial violence.

70. Moreover, the Special Rapporteur expressed concern at **the lack of sufficient facilities**, such as shelters for battered women and safe houses for women who have to enter the witness protection programme. A visit was conducted to the only such shelter in Tegucigalpa, which is for victims of domestic violence and run by a non-governmental organization. During the visit, the Special Rapporteur was informed that the Office of the Special Prosecutor for Women had on **multiple occasions referred high-risk cases involving women linked to, inter alia, murderers, organized crime and gangs, to this shelter.** The practice has continued, despite repeated warnings by the director that such practices place the shelter, its staff and its residents in a state of **extreme vulnerability**, and hinders the ability to effectively provide assistance to victims and guarantee their safety. A similar situation was highlighted in La Ceiba, where a woman under witness protection in relation to the murder of a relative was placed in a shelter for victims of domestic violence. **The State has a duty to provide differentiated and appropriate protection or assistance to women victims of violence, based on whether they are witnesses or direct victims of violence.** The State cannot justify imposing on third parties its primary responsibility to prevent acts of violence against women and to protect victims who are witnesses in criminal cases.

78. The provision of effective remedies involves ensuring the **rights of women to access both criminal and civil remedies and the establishment of effective protection**, support and rehabilitation services (A/HRC/14/22, p. 1). The failure to provide victims with legal assistance, information and support obstructs the right to effective remedies.

²¹ In its response, the Government stated that the amendment to article 23 (8) had been abolished by Decree 66-2014 as of September 2014.

²² Despite the response from the Government indicating that victims in need of special protection are provided with special accommodation, interlocutors assert that the system is not functioning as specified in the protocols.

85. (a) (vii) **Ensure that protection measures are put in place to ensure the safety, privacy and dignity of victims and their families at all stages of the criminal justice process, and ensure that witness and victim protection programmes are established;**

United Kingdom of Great Britain and Northern Ireland (19 May 2015, A/HRC/29/27/Add.2)

60. Domestic violence is recognized as a major cause of homelessness for women and is reportedly the fourth most common reason given for an application for housing in Scotland.²³ Changes to housing support in the United Kingdom, and the withdrawal of the Spare Room Subsidy, also known as the “bedroom tax”, are reportedly reducing women’s ability to find rental properties owing to the unavailability of suitably sized accommodation (see A/HRC/25/54/Add.2, para. 46). This is also causing **bottlenecks in shelters**, as women are unable to leave, thereby preventing other women and children getting safe accommodation and support.²⁴

84. Protection provisions for victims of domestic violence, some of which came into existence in England and Wales through the Family Law Act 1996, were strengthened through the Domestic Violence Crime and Victims Act 2004 [...]. **Non-molestation orders were amended to provide a criminal sanction for non-compliance**, with a maximum sentence of five years’ imprisonment. The act also provides for restraining orders, which can be imposed upon acquitted defendants when a court deems it necessary to protect a person [...]

85. The Crime and Security Act 2010, applicable throughout the United Kingdom, provides for a new civil protection order, the domestic violence protection order, which aims to give victims time, space and support to consider their options. The order places conditions on perpetrators, including restricting/removing perpetrators from households, and preventing contact with, or molestation of victims. An evaluation report published in 2013 made some recommendations for better implementation of the order, including ensuring that police must routinely give reasons when neither a charge nor a protection notice is issued; the proactive monitoring of the protection notice; the enhancing of police training on these orders; and the need for clear guidance regarding “no contact”, “non-molestation”, and child contact arrangements.

86. The Children’s Act 1989 provides for the prohibited steps order, which can be granted by a court to prevent, among other steps, a parent from taking a child without the express permission of the other parent. The Forced Marriage (Civil Protection) Act 2007 allows a person threatened with forced marriage to apply for a **forced marriage protection order** before a court. The order may require such measures as confiscation of the passport of the wrongdoer and restrictions on their contact with the victim, and it can be issued against any person who aids, abets or encourages a forced marriage.

89. As regards sexual violence, since 2013, the Rape Support Fund has allowed for the support and extension of NGO-run Rape and Sexual Abuse Support Centres. Furthermore, 45 Government-run, one-stop Sexual Assault Referral Centres have been established throughout the country. The Special Rapporteur visited one of the centres in Antrim, Northern Ireland, which is the region’s first purpose-built centre. It provides

²³ See www.scotland.gov.uk/Resource/Doc/328505/0106198.pdf, p. 3.

²⁴ See [http://wbg.org.uk/pdfs/Womens-Aid-impact-of-cuts-on-domestic-abuse-services-Scotland\(1\).pdf](http://wbg.org.uk/pdfs/Womens-Aid-impact-of-cuts-on-domestic-abuse-services-Scotland(1).pdf).

specialized services and support to victims, while also encouraging and helping them to pursue their cases through the criminal justice system.

92. Interviewees highlighted that the current austerity measures and the devolution of authority to local authorities was having a negative impact on the provision of services to women victims of violence. NGO service providers ... are being forced to make cuts to their frontline services as a result of reduced funding, whether by closing refuges, reducing support hours or increasing waiting time for services, including admission to shelters.

97. Interviewees also highlighted that investigations are often not undertaken, or are done superficially. In other cases, police failure to properly record or act on domestic violence can have an adverse effect on women's applications for legal aid in family proceedings, including when seeking a divorce or protection order or submitting an application for child-related residence and contact orders.

101. Recommendations shared by service providers to encourage victims and potential victims to report include: strengthening existing legislation, such as the criminalization of breaches of forced marriage protection orders; prioritizing safety and empowerment measures over prosecution; and providing a package of specialist services, including safe accommodation, as well as practical and emotional support.

102. Effective remedies must guarantee the rights of women to access both criminal and civil remedies, and the establishment of effective protection, support and rehabilitation services, including reparations.

(iv) Creating and maintaining a strong and sustained network of specialist women-centred services that provide prevention, protection and support services.

Azerbaijan (2 June 2014, A/HRC/26/38/Add.3)

2. The Rapporteur visited a prison, women's shelters, as well as IDP settlements in Sumgayit and Qaradaq as well as a health center and a school.

31. [...] **Cases of violence tend therefore not to be prosecuted in most instances;** protection orders are not granted; and divorce is not easily accessible, even when requested due to violence in the marriage.

55. The Law on Prevention of Domestic Violence places special emphasis on prevention measures. These include legal measures, such as the criminal prosecution of cases, accountability for perpetrators and the executions of court decisions; social measures, including the provision of shelter, legal and medical assistance for victims, as well as continuing education and assistance in finding employment.

63. Measures by which States can fulfil their due diligence obligation to protect women from violence include the provision of services such as telephone helplines, healthcare, counselling centres, legal assistance, access to shelters, protection orders and financial aid to victims.

64. The law on Prevention of Domestic Violence refers to the establishment of public support centres for victims of domestic violence, in order to provide or facilitate legal and medical assistance, psychological rehabilitation, social protection and allowances, and emergency shelter, among others, on a no cost basis. Such support centres may be established by local authorities and non-governmental organizations, and must be accredited by the relevant executive authority. Measures should also be taken to prevent the repetition of violence, and a protection order should be issued where necessary. The Rapporteur noted with concern that the law refers specifically to the State's duty to "assist in normalization of relations between parties and resumption of family affairs", which can be interpreted as **privileging mediation and reconciliation** over the protection of women's human rights.

65. Article 11 of the law on Prevention of Domestic Violence also provides for the possibility of issuing a 'warning' to the perpetrator not to use violence in the future. However, there is some confusion on whether this warning could be issued together with a short-term protection order, or if it could be used as evidence during a trial, or if it is a prerequisite to obtain a protection order. In practice, this lack of clarity results in law enforcement personnel not taking appropriate action.

66. Regarding protection orders, the **Law provides for short-term 30 day and long-term 180-day protection orders** for victims of domestic violence, whether the case is of a civil or criminal nature. However, considering that **long-term protection orders can only be issued if and when perpetrators violate a short-term order**, and that local executive bodies rarely issue short-term orders, courts rarely issue long-term protection orders. According to the information provided by the Ministry of Justice, courts issued three long-term protection orders in 2013. The process and mechanism through which local executive bodies are competent to issue short-term protection orders is not in operation as yet. Throughout her visit, the Special Rapporteur was not informed of any protection order issued by local authorities.

68. In terms of centres providing assistance and protection, the Special Rapporteur was informed that only one shelter, operated by the NGO Clean World public union Aid to Women, was operational in Baku. However, according to numerous interlocutors this shelter mainly handles cases of women victims of trafficking, and is incapable of meeting the growing demand for protection services by women victims of other manifestations of violence. The Rapporteur was informed that the State Committee was in charge of 11 regional Family and Children Support Centers throughout Azerbaijan, which are mandated to address social issues in remote regions and villages of the country. According to numerous interlocutors, most of these facilities are unable to provide shelter or the necessary psychosocial support, including rehabilitation measures which are necessary for the protection and full recovery of women victims of violence. Analysing numerous issues raised, it was clear that the State was not meeting its obligations to provide protection measures. Some issues include: the lack of necessary funding; the ad-hoc allocation of unsuitable premises by local authorities; the choice of voluntary staff by political entities; and the lack of a dedicated professional service culture.

69. The Special Rapporteur was also informed that the State Committee, together with the Heydar Aliyev Foundation and UNFPA, was involved in the implementation of the XXI Century Without Violence Against Women Project which, among other objectives, aims at establishing and operationalizing a network of centres providing services, including shelter, to victims of violence. The Rapporteur visited a shelter in Khachmaz, which was established in the framework of this project⁴⁰. She regretted to observe that, despite the efforts of the director of the centre, the services provided were very limited. Victims do not have access to the shelter 24/7; the building consists of two bedrooms in dire conditions with no light and no water; and no adequate

legal and psychosocial support or rehabilitation measures were provided to the victims [...] The Rapporteur noted that the lack of shelters throughout the country was alarming and represented a major obstacle in the protection chain. Many structures are managed by civil society organizations that work with very limited resources, and they are dependent on the contributions of financial partners. Such insecurity does not lead to sustainability and substantive responses.

76. During her visit, the Special Rapporteur could not access any data on measures to ensure redress for women victims of violence. The low rate of prosecution and convictions for acts of violence against women contributes to the lack of effective redress provided to victims. Women in Azerbaijan face numerous obstacles to access mechanisms of redress, including quality legal aid, counselling services and shelters.

84. (c)(i) **The establishment of free, sustainable and state supported services for women victims of violence including a free 24/7 helpline, emergency shelters and support centres, legal and medical assistance, psycho-social support and rehabilitation measures accessible to all women in the country, without discrimination.**

85. (e) **Ensure that short term or long term protection orders are issued when appropriate.**

Bangladesh (1 April 2014, A/HRC/26/38/Add.2)

2. In Dhaka, the Special Rapporteur visited [...] a Government-run shelter, the women's ward in the Dhaka Central Jail and a Special Tribunal on Violence against Women and Children.

10. Despite being outlawed through the adoption of the Child Marriage Restraint Act of 1929, early marriage remains a major problem. According to the United Nations Children's Fund (UNICEF), 66 per cent of Bangladeshi girls are married before the age of 18 and approximately one third of women aged 20 to 24 were married by the age of 15.²⁵ The Special Rapporteur was informed that in rural areas, some parents feel compelled to **marry off their girl children as a "protective measure" against rape**, and they resort to obtaining fake birth certificates to escape penalties for violating the law

52. **Protective and preventative measures require the development of national data collection systems.** Unfortunately, this does not exist in Bangladesh. At the central level, the Ministry of Home Affairs and the Ministry of Women and Children's Affairs compile statistics of cases received through their decentralized units. [...]

58. The Domestic Violence (Prevention and Protection) Act was enacted in 2010, and reiterates that domestic violence is a matter requiring the intervention of the State. The Act includes a **broad definition of domestic violence that includes physical, psychological, economic and sexual abuse, and refers to persons who are, or have been, in a family relationship.** The Act includes provisions for shelter homes, as well as medical and legal aid services for victims. It also grants Judicial Magistrates the power to award interim orders, such as protection orders, residential orders, maintenance orders and safe custody orders.

²⁵ See UNICEF, *The State of the World's Children 2013: Children with Disabilities*, United Nations publication (Sales No. E.13.XX.1).

60. A Central Cell on the prevention of violence against women has been set up in the Ministry of Women and Children's Affairs to coordinate violence-related cases with other agencies. This Cell receives complaints from the victims, mediates conflict through counseling and settles monetary disputes in relation to dowry. Temporary shelters have also been arranged to provide support to women who have been victims of violence.

62. Measures by which States can fulfill their due diligence obligation to protect women from violence include the provision of services such as telephone hotlines, health care, counselling centres, legal assistance, access to shelters, restraining orders and financial aid to victims. The Government of Bangladesh has put in place several protection measures over the past few years, including the One-Stop Crisis Centres, a National Trauma Counseling Centre and a Helpline.

63. One of the key features of the Domestic Violence (Prevention and Protection) Act 2010 is the issuance of protection orders. A protection order restrains the respondent from committing any act of domestic violence, entering the victim's place of employment or school and having any personal, written or any form of communication with the victim. In addition to protection orders, courts can also issue residence and maintenance orders. Although the Act came into force in 2010, **victims are often unable to benefit from it due to a lack of awareness of its existence; structural, institutional and procedural obstacles that the victims may face within the justice system; and the limited forms of services available.** Under this Act, victims have the right to legal assistance, counselling and shelter, and are allowed to file compensation claims ... The Act remains underutilized and limits the protective value of the law.

66. The Special Rapporteur visited the One-Stop Crisis Centre and shelter run by the Ministry of Women and Children's Affairs in Dhaka. She was informed that women could stay in temporary shelters for a maximum period of six months with two children under 12 years old. The Special Rapporteur, however, received complaints regarding the living conditions, limited freedom of movement and the overall quality of services provided in the shelters. **The situation of children living with their mothers in these shelters is of great concern.** The Special Rapporteur was informed of cases where children were forced out of school for the entire duration of the mother's stay, without being offered any suitable alternatives.

67. In Jessore, the Special Rapporteur visited a shelter run by an NGO. She noted the **limited availability of space to accommodate victims of violence and their families.** The lack of availability of shelters, both State and non-State, was expressed as a major source of concern by a number of NGOs during the visit.

68. The Special Rapporteur was also concerned with the lack of guidelines to guarantee the protection of victims of violence in safe custody. According to NGO interviewees, in some criminal cases, victims are arrested together with the perpetrators and courts may issue a "safe custody" order through which women are placed in mixed jails. This is also due to the fact that at least 20 districts reportedly do not have shelters, so this form of "safe custody" is often resorted to. Activists indicated that jail officers even make up their own rules regarding the condition of these "safe custody" provisions, including the allocation of rooms and/or the visiting hours.

68. Protection for victims of acid attacks is covered by the Acid Control Act of 2002, which prescribes, *inter alia*, the provision of treatment and legal aid to victims of acid crimes, as well as the establishment of a rehabilitation centre for victims. However, in practice, there is only one burn unit located in the capital, which

makes it difficult for victims living outside of Dhaka to receive appropriate and timely medical care. Most victims die as a result of septicemia caused by severe infections. The ones who survive are left with pain, numerous and costly medical procedures, permanent disfigurement and social stigma.²⁶

79. The Special Rapporteur notes that the provision of effective remedies involves “ensuring the rights of women to access both criminal and civil remedies and the establishment of effective protection, support and rehabilitation services”.²⁷

81. [...] The Special Rapporteur was informed that women living in various shelters are neither consulted nor included in the decisions concerning the types of recreational or income-generating activities provided to them.

84. Many programmes and initiatives have been set up with the technical and financial support of development partners and donor agencies. Unfortunately, such programmes have not reached the majority of the population who live outside the capital; and women’s access to justice and protection is still impeded by generalized impunity, limited access to services and shelters, lack of or insufficient legal representation and limited awareness of their rights ...

(vi) Ensure that protection measures are put in place to ensure the safety, privacy and dignity of victims and their families at all stages of the criminal justice process and ensure that witness and victim protection programmes are established;²⁸

India (1 April 2014, A/HRC/26/38/Add.1)

2. The Special Rapporteur regrets that, despite her specific requests prior to and during the mission, no visits to State-run shelters, prisons or detention centres were programmed.

18. [...] She was also informed of **violence perpetrated against women with disabilities in State-sponsored shelters.**

35. [...] Many interlocutors said that **victims were often discouraged from reporting to the police** and that many women did not file a complaint owing to fear of reprisals or lack of guarantees of adequate shelter and access to livelihoods [...]

52. The Protection of Women from Domestic Violence Act, 2005 seeks to protect, and prevent harm to, women who are or have been abused by a male spouse or a family member. The law broadly defines domestic violence and upholds the right of victims to live in the household, irrespective of title rights, and has a number of provisions for the issuing of protection orders.

²⁶ Ashfaq Yusufzai, “Acid survivors say theirs is a fate worse than death”, 28 June 2013. Available from <http://www.ipsnews.net/2013/06/acid-survivors-say-theirs-is-a-fate-worse-than-death/>.

²⁷ A/HRC/14/22, p. 1.

²⁸ *Ibid.*

60. [...] Victims of violence, who require from the State special security, shelter, public housing, health care and socioeconomic protection, often face significant challenges. Many services are channelled through providers that lack sufficient resources. Numerous allegations were made of de facto caste-based discrimination, perpetrated by police officers, public representatives and community members, with regard to access to services.

63. Deeply entrenched **patriarchal attitudes of police officers, prosecutors, judicial officers and other relevant civil servants**, with regard to the handling of cases, further contribute to victims not reporting, withdrawing complaints and not testifying. Also, the attitudes and prejudices of many village leaders in Khap Panchayats, who act as informal judicial officers, often lead to a pre-arranged settlement between the families, thus failing to provide effective redress for victims. Few police stations have specialized women's mechanisms to address the concerns of women, including violence cases, and to provide the assistance and protection that is required during the investigation phase. Impunity for abuses committed by police officers and the need for civilian oversight was highlighted.

71. Women experience obstacles in gaining access to mechanisms of redress, including legal aid, counselling services and shelters. They are also revictimized and exposed to further risk of violence through the denial of redress in the context of informal trials or negotiations between families and community leaders. The payment of financial compensation by the perpetrator or his family for acts of violence against women, in lieu of legal remedies, was a recurrent concern vis-à-vis the formal and informal justice systems.

78. (k) **Strengthen the implementation of the Protection of Women from Domestic Violence Act, 2005, by:**

- (i) **Allocating sufficient resources to ensure that an adequate proportion of protection officers are employed;**
- (ii) **Ensuring that protection officers are properly equipped to conduct their activities, in terms of administrative and logistical resources, and that funds are made available for their full-time employment;**

79. (a) (v) **Ensure that women and family members wishing to lodge complaints are free from any act of intimidation, threat or harassment, and that protection is provided free of cost for the victim, if necessary;**

- (vi) **Ensure legal, housing, security and financial assistance measures for victims of violence that enable them to pursue accountability for crimes and also to rebuild their lives.**

Croatia (3 June 2013, A/HRC/23/49/Add.4)

4. The Special Rapporteur visited public and NGO-run shelters in Zagreb and Vukovar as well as a centre for social welfare (CSW) in Zagreb.

12. Domestic violence is a widespread problem throughout the country, usually perpetrated by intimate partners, including current or former spouses or boyfriends. For 2010, the Ministry of the Interior recorded 15,189 reported domestic violence offences. Data on police interventions similarly reflect a high prevalence.

In 2008, the police received 16,885 requests for intervention in domestic violence cases, followed by 9,833 requests for protective measures. 3 Although the Government has developed an important framework in order to combat domestic violence, both legislative and institutional, there are significant gaps in implementation which impede effective protection for women victims. The Special Rapporteur heard numerous stories from women victims of domestic violence, including the following:

- Case of Irina, who managed to find accommodation at an NGO shelter and was provided with a lawyer who is applying for protection measures.

13. In 2003, the Government adopted the Law on Protection against Domestic Violence (LPDV). In theory it provides protective measures focused on victim safety as well as measures directed at offenders' behaviour. However, there was overall consensus in interviews with civil society broadly, and with victims in particular, that the goals of victim safety and offender accountability were not a reality in practice. For example, the practice of dual arrests is implemented against the victim, regardless of the danger or threat that the perpetrator poses to the safety of the victim. A victim who has verbally insulted her offender can be prosecuted and held accountable alongside her abuser who has physically beaten her. Also, police officers do not systematically identify the primary aggressor in domestic violence cases, and instead of making determinations of the primary aggressor and defensive injuries, they generally defer the identification to judges and physicians, respectively. As a result, many victims not only face the potential for arrest when they call for help, but also ensuing charges and punishments for defending themselves against the assault.

14. [...] Under the LPDV, protective measures are only issued when there is a misdemeanour and not when the case involves criminal charges. Even if an offender perpetrates serious injuries, compelling the victim to seek protection through an eviction or restraining order, the maximum sentence that the offender could face through the misdemeanour courts is 90 days' imprisonment or a fine. Conversely, if the State Attorney chooses to prosecute the case and seek criminal-level punishment, the victim is then precluded from obtaining long-term protective measures for herself under the LPDV.

33. The adoption of the LPDV in 2003 represented a significant step towards protecting domestic violence victims and holding offenders accountable. It provides both urgent and long-term protective measures focused on victim safety, including eviction, stalking and harassment measures, restraining orders and confiscation of weapons. It also provides measures directed at offenders' behaviour, including psychosocial treatment and addiction treatment. While a victim may, on her own, apply for protective measures under the law, most often, police file for these measures on behalf of victims [...].²⁹

²⁹ 35. The Government has also issued protocols for specific sectors, such as the Ministry of the Interior's Regulations on Implementation of Protective Measures for the LPDV. The Rules of Procedure in Cases of Family Violence (protocol) were adopted in 2005 and contain a series of mandated procedures for the competent bodies including the police, CSWs, health and educational institutions and the judiciary. This protocol includes methods of cooperation between different bodies which participate in detecting and eliminating violence and providing assistance and protection to a person exposed to any form of family violence. These Rules have a gender-sensitive approach to victims, and in cases of a child, an obligation to act according to the principle of the best interest of the child. In addition, an addendum entitled "Report on the intervention provided after the report of family violence" has been included to help police officers provide the victim with all the necessary information and resources available. Furthermore, an amendment to the Rules was added in 2006 in order to provide immediate protection of family violence victims, both by CSWs and courts. These developments are commendable and need to be implemented in practice.

36. The six-year National Strategy of Protection against Family Violence was adopted on 3 February 2011 upon the expiry of the 2008–2010 policy. It focuses on seven main areas of activity and establishes specific objectives and measures for each of these areas ... [including] the provision of financial support to shelters and to civil society organizations.

41. In Croatia, shelters are run either by the public sector (cities) or by NGOs. Autonomous women's shelters and other NGO shelters are operated by women's groups and work on the principle of women's self-help, and are self-regulating and independent of State entities. They provide more than shelter for victims and their children, as they provide them with empowerment and holistic assistance. On the other hand, State or city shelters also offer services, sometimes to both sexes, including to victims of domestic violence, addicts, homeless persons, victims of trafficking, asylum seekers and migrants. These have stricter regulations and are found to be more bureaucratic in nature. The Special Rapporteur also noted that NGO shelters were more victim-responsive, whereas State shelters were more bureaucratic and had stricter rules and admission procedures.

42. Shelters face numerous challenges. First, the lack of bed capacity is a serious problem. A report by the United Nations Development Programme (UNDP) noted that Croatia's shelter capacity on a per capita basis was at least 20 per cent below the Council of Europe standards. Insufficient funding is another problem. The two funding schemes under the Ministry of Social Policy and Youth are complicated and pose challenges for organizations running these shelters. The Government's funding conditions generally fail to reflect the actual needs and operations of a shelter. Prescribed conditions, in turn, reduce shelters' autonomy, forcing them to follow strict and, at times, irrelevant criteria in order to obtain financing. Moreover, the per-bed basis does not reflect the reality that shelters' baseline operating costs are the same no matter how many residents they admit. The Special Rapporteur confirmed the above-mentioned issues while visiting two NGO-run shelters in Zagreb and Vukovar and a city-run safe house in Zagreb.

43. Another barrier to safe refuge for victims is the referral system by CSWs. Public safe houses can only accept victims referred by the CSWs or police. Often, their staff will even redirect clients to the CSWs or police first. Shelters typically provide housing to victims for a limited period of time, often between six and twelve months. Many NGOs allow extended stays, but due to capacity constraints, shelters are unable to provide a longterm solution. Once they leave a shelter, victims' housing options are limited, as there is no State-subsidized housing specifically for victims of domestic violence, although the status of victims of violence can increase eligibility for some public housing.

45. Counselling services are offered to women victims of violence, in the form of telephone helplines and in-person counselling services with professionals. While the NGOs providing shelters offer this type of assistance mostly to victims of domestic violence, other NGOs have set up specialized psychosocial assistance for victims of sexual violence and victims of wartime violence in the areas of the country where this occurred during the conflict. In addition, CSWs are mandated to offer free counselling services, among a variety of other services. Telephone helplines are provided by NGOs, as CSWs only offer their services in person at their offices. Telephone helplines are mostly available in larger cities during office hours. They do not provide services at night, when such services are in demand.

46. The Special Rapporteur had the opportunity to interact with Specialized Police Officers trained to deal with cases of domestic violence. These police officers, mostly women, undergo a few weeks of volunteer

specialized training and are posted in each of the main police stations to assist victims of domestic violence and intervene on the scene when needed. Although they intervene mostly in cases where children are involved, they play an important role in securing shelters for victims of domestic violence as well as receiving testimony for court cases, whether misdemeanour or criminal. However, these officers are not sent to the scene when an incident occurs, whether it is for domestic, sexual or other types of violence against women. This is the work of duty officers who are generalist police staff. In cases where a woman victim is involved, one of the two duty officers on patrol would be a woman.

48. Police are often the first responders to domestic violence, and the manner in which they respond, their attitude toward the victim and the protection they provide are vital in promoting victim safety and offender accountability. In addition, the police serve as an important link between victims and the legal system and other services, as police officers play an important role in referring or transporting victims to service providers, such as shelters, NGOs and hospitals. Although there are now specialized police officers who have undergone training in domestic violence, they are not available at all stations and at all hours. The first respondents (duty officers) tend to be generalist police officers in most cases.

49. The police connect the victim and the courts, because in practice the police act as prosecutors in misdemeanour cases. Their prosecutorial role in the misdemeanour system can help the victim overcome evidentiary challenges she might face. **While a victim could initiate misdemeanour proceedings on her own and obtain protective measures, she would still face the challenge of collecting evidence on her own.** Despite this important role in preventing and protecting women from violence, the Special Rapporteur found significant gaps and weaknesses relating to their responses when faced with cases of domestic violence. Police officers tend to assume that domestic violence is a private matter or is a result of alcohol abuse. This can result in an ineffective police response, such as the failure to take domestic violence seriously, inform victims of their rights, refer them to services or A/HRC/23/49/Add.4 14 charge the perpetrator. Furthermore, in some cases dual arrests are made, where both the perpetrator and the victim are arrested and sometimes charged with offences such as disturbing public order. Statistics showed that women constitute up to 35 per cent of the arrest in cases of domestic violence.³⁰

51. The Special Rapporteur was informed that under the LPDV, the police may propose and seek any of the six protective measures, including three urgent protective measures: a restraining order; eviction; and a stalking and harassment order. The police also have the option of imposing and applying for precautionary measures for eight days under the Misdemeanour Law. However, although they almost always propose protective measures when responding to domestic violence cases, there is a greater tendency to prioritize treatment for perpetrators in the form of psychosocial and addiction care and to pay less attention to protection for women and children victims of domestic violence. Interviews with civil society have confirmed the underutilization of protective measures for women.

52. The Special Rapporteur noted the important role conferred on Centres for Social Welfare (CSWs) in the response to protect and prevent domestic violence. CSWs are mandated under the LPDV and the Family Law to offer a wide range of measures to victims. Such services may include referrals to shelters ... The Special Rapporteur was informed that CSWs tend to act as gatekeepers between victims and shelter, and even

³⁰ Interviews with representatives from the Ministry of the Interior and with police officials, 8 and 10 November 2012.

if they have gone to the police, victims are required to register with the CSW to be placed in publicly-run or -funded shelters.

53. Furthermore, the focus of this institution is primarily to retain the unity of the family and provide **reconciliation through mandated mediation processes**. Often this is done with the perpetrator and the victim being present together in the same location. Testimony during interviews has confirmed that CSWs have shown inadequate and inappropriate responses to the protection needs of women victims of family violence. In addition, it was stated that CSWs' employees presented a lack of understanding of the complex nature of abusive relationships and showed a failure to respond adequately, including to the point of 12 Interviews with representatives from the Ministry of the Interior and with police officials, 8 and 10 November 2012. A/HRC/23/49/Add.4 15 dismissing victims' safety. This situation, combined with the restriction of access to shelters and other forms of assistance for women victims of family violence, leads to a reluctance to use this institution.

65. Although the LPDV gives misdemeanour judges the authority to grant protective measures, the judges most often focus on treatment for perpetrators rather than the protection of victims. The police often apply directly to the court for protective measures on behalf of the victims of domestic violence and also recommend psychosocial or addiction treatment for the perpetrator. The latter remedy does not provide protection for the victim. 17 Often, psychosocial and addiction treatments are ordered along with a suspended sentence, even in high-risk cases. There are no effective compliance monitoring programmes, and this was confirmed in interviews with victims who stated that most often men do not attend the programmes consistently. The Special Rapporteur is concerned about the efficacy of these psychosocial programmes in preventing domestic violence. There are no independent studies on the effective implementation and benefits of such treatments. She is also concerned about the emphasis on perpetrator treatment, which diverts limited funding from victim services, thus conveying the message that the State cares more for the welfare of perpetrators than of the victims.

66. Protection measures for the victim, such as eviction, restraining orders and measures to prevent and prohibit harassment, are highly important to the safety of the victim. However, these protective measures are ordered far less frequently than perpetrator treatment programmes. When judges do order these protective measures, some problems include: orders that are impractical or inappropriate; the duration ordered for both eviction and restraining orders, which is often too short; and the issuance of protective measures that lack clear directives on the distance abusers should stay from the victim. Furthermore, a failure to order one measure, such as eviction, but not another, such as a restraining order, can lead to conflicts that compromise victims' safety. Finally, the high standard in article 19 of the LPDV which states that these shall be issued to eliminate a "direct threat to that person's life or other family members" creates a serious barrier to obtaining these urgent protective measures.

67. Although the misdemeanour system is recognized to be faster than the criminal system, reports revealed concerns over the time misdemeanour procedures can take. 17 See *A. v. Croatia*, Judgment of 14 October 2010, Application no. 55164/08, European Court of Human Rights (available from the Court's HUDOC database, <http://hudoc.echr.coe.int>), where the European Court of Human Rights found that Croatia violated Article 8 protecting the right to respect for private and family life of the European Convention on Human Rights, and also *Tomašić and Others v. Croatia*, Judgment of 15 January 2009, Application no. 46598/06, European Court of Human Rights (*ibid.*), where the treatment programme was found to be not

adequately implemented to comply with article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) protecting the right to life. A/HRC/23/49/Add.4 18 Outside Zagreb, judges are not always accessible 24 hours per day or on weekends and holidays. In addition, the law is silent on a time frame for issuing long-term protective measures, and parties' failure to appear for a hearing can prolong the proceedings. Finally, because appeals preclude protective measures from entering into force, delays of several days occur, and victims are put at risk of suffering more violence.

74. c) Amend the LPDV to allow urgent protective measures to be issued if there is a fear of imminent physical harm, to allow the judiciary to issue an urgent protective measure that will stay in place for the full term (two years) allowed under the law, and to make sure that an appeal does not preclude entry into force of a decision on these measures;

75. (f) Give priority to protective measures that protect victim safety, including eviction, restraining orders, harassment protections and confiscation of firearms for the maximum period allowed under the law. Develop a monitoring and evaluation system that looks at the implementation and effectiveness of the psychosocial treatments of perpetrators. Such remedies should be ordered in conjunction with other protective measures necessary to ensure victim safety.

76. (b) Continue to take the necessary measures, including financial, to maintain existing and set up new anti-violence shelters for the assistance and protection of women victims of violence in all areas of the country, which can provide valuable advice and support for the benefit of public shelters. This should be done in partnership with women's organizations.

(c) Ensure sufficient funding and capacity in shelters for women victims of domestic violence; develop national standards to address concerns about shelters and other support provided to women victims of violence.

Bosnia and Herzegovina (4 June 2013, A/HRC/23/49/Add.3)

6. Throughout her visit, the Special Rapporteur had the opportunity to visit three nongovernmental (NGO)-run women's shelters in Sarajevo, Banja Luka and Mostar, where she heard the personal testimonies of women survivors of violence. [...].

19. The Special Rapporteur interviewed victims of domestic violence living in three shelters she visited, as well as women serving sentences in the women's ward of the prison in Tuzla. While most of the women had suffered both physical and psychological violence, she met a number of women who had endured severe psychological violence and had faced great difficulties in receiving adequate support from the authorities (see appendix). Most cases of domestic violence involved intimate partners, yet testimonies included women who were abused by other family members (see appendix). She also met women who had been subjected to labour exploitation by their husbands (see selected testimonies 1,4, appendix).

21. Life for women after they leave an abusive relationship is extremely difficult, and the women interviewed were very anxious about their capacity to survive independently without the support of a shelter. This is particularly the case for women with low educational levels or with little working experience, given the

country's current economic environment. The lack of medium- and long-term housing alternatives was also a recurrent concern.

37. In 2005 both entities adopted laws on Protection from Family Violence. These laws introduced protective measures for victims of domestic violence, such as restraining orders, removal of perpetrators from the family home, the prohibition of harassment and stalking, mandatory psychosocial treatment and mandatory rehabilitation.

38. With regard to protective measures, these are issued by a Misdemeanour Court upon request of victims/someone on their behalf, or ex officio. Both laws establish sanctions for any **State officials who fail to report cases of domestic violence**. While the protective measures provided by both laws are essentially similar, the Family Violence law in the Republika Srpska includes fines for perpetrators who commit acts of domestic violence and/or violate protection measures, while the law in the Federation of Bosnia and Herzegovina only fines perpetrators if they violate a protection order.

39. The Special Rapporteur was informed that a new law on domestic violence had recently been passed in the Republika Srpska, which reportedly incorporates most of the standards from the Council of Europe Convention, and provides for urgent (24-hour) protective measures, as well as multidisciplinary cooperation between health and social institutions to provide services for victims free of charge. It is noteworthy that the new law attempts to shift from a "family protection" to a "victim protection" approach, in order for State responses to adequately protect victims and prevent new instances of violence.

[..]³¹

66. As regards the functioning of Centres for Social Welfare (CSWs), they receive domestic violence cases (a) directly, (b) through the police, or (c) through NGOs, neighbours or other third parties. In Tuzla, for example, if victims go directly to the CSW, the centre will inform the police and make contact with the closest shelter if necessary. If the police receive a report during the business hours of the CSW (usually from 7 a.m. to 3 p.m.), they will establish contact with the CSW and with the prosecutor, but if the report is received outside business hours, they will try to place victims with a relative and bring them back to the station the next day to continue with proceedings and refer the case to the CSW.

67. In both entities, hotlines have been made available, which refer victims to NGO-run shelters which provide advice and support. However, victims may not be received directly by these shelters if they are not referred by the competent authorities.

68. Most CSWs are staffed by social workers, at least one psychologist and a lawyer working on all cases received, including domestic violence cases. In the CSW in Sarajevo, the first point of contact is a psychologist who conducts a risk assessment of victims and any accompanying children. Depending on the results, victims might be referred to a safe house or to any relatives who can accommodate them. The CSW

³¹ 49. As regards social protection for victims of domestic violence, in the Federation of Bosnia and Herzegovina victims are not entitled to social rights and the provision of support is left to the discretion of the cantons. The Special Rapporteur was informed that currently only the cantons of Tuzla, Sarajevo and Zenica include victims of violence within their social protection provisions.

50. In the Republika Srpska, a new Social Protection Law recognizes domestic violence victims as beneficiaries of the social protection network and services, which are provided through the Centres for Social Work (CSWs). The law is gender neutral, considering both men and women as potential victims of domestic violence.

reportedly accompanies and advises victims through any necessary proceedings, whether they need to be referred to a clinic or hospital, a shelter, or to the police station to make a statement.

73. Even when legislation provides for protection measures such as the removal of perpetrators from the family home, this is rarely implemented. Victims are sometimes given a short period of time, ranging from 4 to 10 days, during which perpetrators are excluded from the family home and women are allowed time to collect their personal belongings and to leave the home.

74. The Special Rapporteur heard the case of a woman who was in a shelter for six months with her four children. Since the home in which her family lived belonged to her mother, she was required to provide her abusive husband with alternative accommodation. As she could not afford this, she had to stay in a shelter while the perpetrator stayed in her home. In order to solve the problem, she needed to wait for the divorce procedures to be finalized. She had been waiting for this for over a year. In this case, the CSW had decided the abusive husband could use one of the rooms in the house while the divorce process was finalized. This lack of focus on victim safety by State authorities was a recurrent complaint made by interviewees.

75. Interviewees in Banja Luka claimed that protective measures are rarely issued and that no monitoring of their application is actually undertaken when they are. Furthermore, CSWs and other authorities are often reluctant to inform women of the possibility of requesting protection measures.

76. The Special Rapporteur was also informed that some CSWs sometimes **use their own premises to house victims of violence to avoid referring victims to shelters**. These alternative shelters, however, only lodge victims for a few days, which is not enough time to provide the comprehensive services that would be offered by an NGO-run shelter. This results in lack of expertise by service providers, more bureaucracy and less funding for crucial services, which are largely provided by NGOs.

77. These practices are to a large extent influenced by cost concerns, as the cantons in the Federation of Bosnia and Herzegovina and the municipalities in the Republika Srpska meet some of the costs of lodging women in a shelter.

78. In the Federation of Bosnia and Herzegovina, the cost is borne by the authority that refers a victim to the safe house, whether the police or the CSW. However, the effectiveness of the support varies from canton to canton. Sarajevo canton is reportedly one of the rare cases in which the NGO-run shelter enjoys stable financing by the cantonal Ministry for Social Welfare. However, while it previously covered 100 per cent of the cost of each beneficiary, it currently only covers 60 per cent of the cost. This has negative effects on the NGOs because in addition to the cost of lodging victims, shelters offer other services such as free legal advice and counselling, inter alia. This results in NGOs having to depend on international support and donor funding to carry out their work.

79. In the Republika Srpska, current legislation includes allocations to set up safe houses, with 70 per cent of the funds being provided by the entity budget and 30 per cent by the municipalities. However, only the Banja Luka shelter is currently receiving the 30 per cent budget that should come from the municipality and NGOs are struggling to establish much-needed shelter in other locations, such as Bijeljina.

80. CSWs in both entities made it clear that women do not need to file a police report to be placed in a shelter, nor do they need to do so at any point during their stay. However, shelters cannot provide support to victims without a referral from the relevant authorities. Whether a case comes through a helpline or through the police, it will first need to be registered through a CSW before it is referred to a shelter. With shelters having to follow this administrative procedure, it is common for urgent cases not to be treated expeditiously.

82. [...] Activists claim that protection measures still take up to six months to be processed, with no consideration of the urgent nature of these measures.

85. There are reportedly also high levels of confusion among the judiciary about the nature and purpose of “protection measures”, with authorities using these in lieu of sanctions against perpetrators. Therefore, mandatory psychotherapy or substance abuse treatment will be often issued both as a “protection measure” and as a form of punishment. Furthermore, the Special Rapporteur received numerous reports of perpetrators not complying with such mandatory treatment and facing no consequences for violating these orders.

91. Due to financial constraints, currently only 3 out of 16 local courts have witness support staff, including the Banja Luka District Court and the Sarajevo Cantonal Court, which established these systems with international support. A UNDP initiative was launched in 2008, aimed at creating a system of victim/witness protection and support for each prosecutor’s office and court. Civil society advocates claimed, however, that it is not only psychological support and assistance that these victims need, but also protective measures throughout the processes, as many have been subject to threats and harassment when leaving the courts.

101. The failure by Bosnia and Herzegovina to comply with its due diligence obligation to provide reparations to women victims of violence has resulted in a lack of access for victims of wartime sexual violence to both criminal and civil remedies, as well as to adequate protection, support and rehabilitation services.

(iii) Protection measures are speedily and effectively implemented independently from any sanctions against perpetrators of domestic violence. Women victims should be informed by the relevant authorities about their right to request such measures.

(i) Expedite the implementation of the National Strategy for War Crimes Processing and ensure that any crimes of sexual violence are prioritized and prosecuted. Courts and prosecutors at the State, entity and cantonal levels should be provided with political and financial support to undertake these proceedings while ensuring witness support and protection measures and programmes for victims. Courts should also ensure the right of women to make any financial compensation claims during criminal proceedings.

(h) Guarantee the continued support of NGO-run safe houses in all areas of the country. State and local level authorities should recognize the valuable work of these organizations and provide support and cooperation by, inter alia, providing the financial support mandated by law, referring victims to shelters in a timely manner, and supporting the establishment of much-needed shelters in new locations.

Papua New Guinea (18 March 2013, A/HRC/23/49/Add.2)

4. The Special Rapporteur had the opportunity to visit the Family Support Centre at Port Moresby General Hospital, as well as the Bomana women’s prison, and a women’s shelter, run by a non-governmental organization (NGO), in Port Moresby, where she heard testimonies from a number of women.

25. [...] Girls who do not live with their natural parents are at a greater risk of experiencing sexual violence due to their dependence on male relatives for food, shelter, school fees and other basic necessities.

54. [...] In 2009, the Magisterial Service introduced Interim Protection Orders (IPOs) with the aim of increasing protection of any persons at risk of assault. However, IPOs are only valid for two weeks, and women who use this remedy need to return to court to obtain another IPO to extend the period.

56. The [Family Protection] Bill was drafted with the objective of establishing the offence of domestic violence and setting up a regime for family protection orders. It is based on a number of underlying principles, including an acknowledgment that “violence in marriage” is not a private matter, but “a social problem of public concern”.

58. As regards family protection orders, in accordance with the draft, these could be requested by complainants themselves or someone on their behalf if complainants have given their oral or written consent. The court could also issue a protection order if it believes on reasonable grounds that a person has committed an act of domestic violence or is likely to commit one. A person who breached a family protection order would also be guilty of an offence and would face a term of imprisonment of up to seven years and/or a fine.

59. The Special Rapporteur notes with concern that the current draft **envisages placing restrictions, such as approaching certain locations, not only upon perpetrators but also upon victims**. The Bill also envisages mandating victims to provide evidence, which may put them in untenable positions and could possibly lead women to simply deny any acts of domestic violence against them [...].

60. [...] The Bill does not provide for an expedited procedure that would allow victims to obtain a protection order without having to apply through the regular procedure before a judge. It also would allow for the court to direct both the **defendant and the complainant to participate in counselling and/or mediation**. This mandatory counselling and/or mediation may not be in the best interest of women.

71. [...] [T]he [2011-2015] policy establishes a number of strategies that include: raising awareness, providing victims with just and effective legal remedies and shelters, supporting women’s organizations and NGOs, building the capacity of **village court magistrates, enacting and enforcing laws on gender-based violence, and increasing penalties for perpetrators**.

76. There are currently no government-run shelters for women victims of violence. The Special Rapporteur visited a women’s shelter in Port Moresby which is run by a church organization, as well as another NGO-run shelter that was temporarily inoperative due to lack of funding. It was clear throughout the mission that the limited support and other relevant services that exist for women victims of violence were being provided

largely by the civil society sector, with the assistance of development partners. There are no such services outside the capital.

77. The Department of Health has established Family Support Centres (FSCs) in some hospitals which provide both counselling and short-term shelter services. The Special Rapporteur visited the FSC at Port Moresby General Hospital and also met with service providers of the FSCs in Goroka and Kundiawa.

78. Hospital emergency and gynaecological services are usually the first point of entry for women survivors of violence. FSCs also receive women who walk in, as well as referrals from the police. The FSC in Port Moresby does not have any medical staff, but collaborates with the hospital. There is reportedly a high turnover of staff in the hospital, which requires ongoing training on gender-based violence, to ensure cases are not simply dismissed after medical treatment. The FSC helps women request an IPO and report to the police, using the medical reports provided by the hospital. It then refers victims to the shelter. However, the FSC has had to accommodate women for longer periods if the shelter is full or if it does not manage to get an IPO for the victim.

79. Staff reported that they often suffer harassment and intimidation by alleged perpetrators. Staff reported high levels of corruption, with police officers receiving bribes from perpetrators, or protecting known perpetrators. Therefore, women remain at risk after leaving the FSC, even if they have relatives or friends who provide them with accommodation. Women are often also pressured to drop charges, or judges and/or prosecutors are bribed to drop cases. When women return to the FSC after suffering a subsequent attack, the severity of their injuries is usually greater.

86. Most of the programmes and initiatives that have been launched by the Government in Port Moresby, with the technical and financial support of development partners and donor agencies, have not reached the majority of the population who live outside the capital. In these regions, women's access to justice and protection is still impeded by generalized impunity, limited access to services and shelters, lack of or insufficient legal representation and limited awareness of their rights. Other factors include economic dependency and societal reluctance to recognize numerous forms of violence against women as crimes and human rights violations that require serious attention.

89. The Special Rapporteur recommends that the Government:

(g) Make the necessary amendments to the current Family Protection Bill to ensure that: [...] (ii) Emergency or expedited protection orders are easily obtainable by victims; (iii) Protection orders do not impose any restrictions on victims.

(q) In cooperation with women's organizations and development partners, and as a matter of urgency, develop a project for the establishment of a government-run shelter for women victims of violence in the Highlands region.

Make the necessary amendments to the current Family Protection Bill to ensure that: (i) Acts of economic violence are included, such as withholding food, retaining income from marketing and other activities, or preventing women's access to their financial and other assets; (ii) Emergency or

expedited protection orders are easily obtainable by victims; (iii) Protection orders do not impose any restrictions on victims.

Solomon Islands (22 February 2013, A/HRC/23/49/Add.1)

4. The Special Rapporteur had the opportunity to visit the Women’s Correctional Facility at the Rove Prison Headquarters, as well as the country’s only shelter operated by a non-governmental organization, where she heard testimonies from a number of women.

61. At the current time, only two non-governmental organizations provide shelter and other services for women victims of violence; both are based in Honiara. The Family Support Centre provides legal information and facilitates referrals to the police and other authorities. It also carries out awareness-raising programmes and skills training at the community level. In 2011, the Centre assisted 304 clients, 62 of whom were victims of domestic violence. The Centre handled cases of sexual harassment (two), child sexual and/or physical abuse (47), as well as 68 clients who required assistance regarding divorce, child custody and maintenance issues. Of all clients, 63 were “repeat” clients.

62. The Christian Care Centre is the only shelter for women victims of violence in Solomon Islands. Besides providing housing, the Centre offers counselling services and conducts community awareness programmes. During the mission, the Special Rapporteur visited the Centre and met with some of the women and children sheltered there, as well as with the staff and the director.

63. One of the main issues that arose during the above-mentioned visit was the **inability of women to leave the shelter owing to lack of employment, family support or any means to support themselves and their children**. While the shelter is only supposed to receive women for a few weeks, the Special Rapporteur met women that had been there for up to seven months. The shelter provided activities that are considered beneficial and soothing, such as sports, prayer groups and bible study. The women did not receive any vocational or skills training, nor did they engage in any productive activities, such as gardening or marketing, to prepare them for living autonomously outside the shelter.

64. The few organizations providing counselling and shelter services for women victims of violence operate with insufficient resources, which are received exclusively from donors. There is no funding by the Government, despite the obligation of the State to provide measures of redress, including counselling and shelter services. In the provinces, such services are largely non-existent.

65. The Special Rapporteur was informed about a Government pledge to devote SI\$ 5 million to the establishment of women’s resource centres in each constituency. According to the Ministry of Women, Youth, Children and Family Affairs, the centres would not be managed by the provincial governments, but directly by Members of Parliaments in their constituencies. One of the main challenges envisaged for the establishment of such centres would be the need to allocate land for their construction. Concerns were also raised regarding the lack of information about the budget allocation, planning and model that would be used to establish these centres, as well as the staffing provided. Such a lack of clarity raised the concern that the use of these funds could be politicized or mishandled by parliamentarians and would not be used for their original purpose of establishing a women’s resource centre in each constituency.

71. Domestic violence cases are not seen as a priority by lawyers, as they prefer to take on cases that might be heard in the High Court. The Special Rapporteur was informed that lawyers in the Public Solicitor's Office often refuse to represent victims of domestic violence if there are no visible injuries on their bodies. Women who seek legal assistance are often requested by the Office to come back when they have a black eye or a broken bone, so that they can apply for a protection order. Even women who have received death threats from their spouses will often not receive the support of the Office if physical injuries are absent.

75. Judges may grant protection orders for domestic violence, but only for married women and only from a court. Even when a protection order has been obtained, it is not necessarily respected or enforced by the police.

76. Interviewees reported a lack of training and sensitivity on the part of police officers dealing with cases of domestic violence, who often allow their own personal and traditional views to influence their decisions on whether to enforce protection orders.

83. [...] In remote regions, women victims of violence face generalized impunity, lack of access to services and shelters, lack of legal representation and limited awareness of their rights ...

85. The Special Rapporteur recommends that the Government of Solomon Islands:

(j) Allow for the provision of protection orders for unmarried women victims of violence, and establish suitable procedures for women living in the provinces and who have no access to the courts.

(n) In cooperation with women's organizations and development partners, and as a matter of urgency, develop a project for the establishment of a Government-run shelter for women victims of violence. The shelter should not only provide temporary refuge but also legal and medical support, and vocational or skills training to help women engage in productive activities to foster independence after leaving the shelter.

Italy (15 June 2012, A/HRC/20/16/Add.2)

4. The Special Rapporteur visited the anti-violence helpdesk within the accident and emergency department of the San Camillo Hospital, Rome, and anti-violence centres and shelters in Rome and Imola.

43. Judicial protection measures in the context of intrafamily violence (arts. 342 bis and ter of the Civil Code) allows for an ex parte application to a civil court judge in urgent cases. Protective measures such as the removal of the perpetrator from the household, banning the person from approaching places habitually frequented by the victim, the possibility of filing charges for emotional and psychological abuse, interventions by social services or anti-violence shelters and regular payment of alimony are provided for.⁶⁰ Violation of those civil protection measures is criminally sanctioned by imprisonment or a fine (art. 388 of the Penal Code).

47. Trafficked women. Law No. 228/2003 against human trafficking introduced the offence of reducing a person to or keeping him/her in slavery or servitude, trafficking in persons and trading in slaves. It also provides for the creation of a short-term protection programme granting accommodation, food and health care to victims in protected centres.

48. Legislation also includes a special residence permit for victims of trafficking, as part of a social protection package, which is independent from any reporting/provision of information by the victim as regards the traffickers. It further offers victims of trafficking the opportunity for a more substantive integration programme.³²

62. In addition, issues of violence against women are addressed through the establishment of a specialized team of prosecutors within the Public Prosecutor's Offices. They are in charge of proceedings concerning sexual abuse and non-compliance with family support obligations. In Rome, as in other cities, memoranda of understanding are signed between the judiciary and anti-violence shelters and hospitals, for effective and coordinated actions in the area of violence against women and protection of victims.

64. During the visit the Special Rapporteur was informed of the significant assistance to women victims of violence which is provided by CSOs that manage anti-violence shelters and anti-violence helpdesks in accident and emergency departments within hospitals. The Special Rapporteur recognizes the vast experience and expertise that exists in the provision of services including legal, social, psychological and economic assistance to victims of violence against women. Despite the limited availability of resources for this work, the Special Rapporteur was informed of collaborative forms of public-private partnerships, including through a tender-system, which has so far allowed this work to continue for the benefit of the women and girls who have been subjected to violence.

68. The legal framework largely provides for sufficient protection for violence against women. However, it is **characterized by fragmentation, inadequate punishment of perpetrators** and lack of effective redress for women victims of violence. These factors contribute to the silencing and invisibility surrounding violence against women, its causes and consequences.

69. Victims of violence and representatives of civil society with whom the Special Rapporteur met highlighted the lengthy criminal procedure, the non-respect of civil protection measures and the inadequate pecuniary and detention sanctions against perpetrators, which weakened the protective nature of that measure. Moreover, the lengthy delays in the justice system may also impact the outcome of a case. The prescription law allows for a matter to be dropped due to delays in the system. In addition, **the lack of coordination between judges of the civil, criminal and juvenile benches when handling protective measures does sometimes result in conflicting judgments.**

70. Another recurring issue that emerged from interviews with women is the delay or failure to pay alimony by the husbands, despite existing laws criminalizing such action. As a consequence of this economic violence, according to information provided in an interview with victims, women are compelled to live in shelters or with relatives and resort to the justice system for enforcement of payment. According to associations providing legal assistance to victims, resorting to judicial proceedings can be time and resource-consuming

³² Legislative Decree 286/ 1998 on Migration (art. 18) amended by Law No. 189/2002.

and, at times, a futile exercise as the relevant assets may no longer be available at the time of the courts’ decision. The reluctance of judges to grant orders prohibiting the disposal of assets pending the finalization of the matter, further disadvantages women and children.

90. According to DIRE, challenges facing anti-violence shelters include: inadequate or no commonly agreed standards on the specialized roles of service providers; management and accountability of organizations; the effective role of shelters in preventing and countering violence; the absence and/or inconsistency in obtaining Government funds for creating new and maintaining existing anti-violence shelters; and the fact that support services are only reaching a limited number of women victims of violence. CSOs (including DIRE) were vocal in explaining to the Special Rapporteur that as of January 2012, 14 shelters had closed or were at risk of closure, to the detriment of victims. Similarly, the Special Rapporteur was informed by a CSO managing an accident and emergency centre within a hospital in Rome about the imminent closure of an anti-violence help desk within the emergency room, which is managed and funded by women’s associations.

94. (d) Address the legal gap in the areas of child custody and include relevant provisions relating to protection of women who are the victims of domestic violence;

96. The Government should further: (a) Continue to take the necessary measures, including financial, to maintain existing and/or set-up new anti-violence shelters for the assistance and protection of women victims of violence; (b) Ensure that shelters operate according to international and national human rights standards and that accountability mechanisms are put in place to monitor the support provided to women victims of violence.

Somalia (14 May 2012, A/HRC/20/16/Add.3)

10.[...] The Independent Expert cited domestic violence against women as a major problem throughout the country (ibid., para. 53). Because of the destruction of formerly functioning traditional clan structures, in many places women had no access to any form of protection (A/HRC/12/44, para. 55). The United Nations Development Programme (UNDP) noted that **survivors of sexual and gender-based violence often faced considerable difficulties in accessing after-care services such as medical assistance, psychosocial support and legal assistance**. In addition, the majority of cases of sexual violence had been settled through traditional dispute-resolution mechanisms (A/HRC/WG.6/11/SOM/2, para. 29).

18. [...] **The attitude of denial of domestic violence, coupled with the absence of reporting, accountability and protection mechanisms further exacerbates this pervasive form of violence against women.**

68. This absence of mechanisms to bring perpetrators to justice and hold them accountable further contributes to the prevalence of a culture of impunity. Furthermore, the absence of legal aid or assistance and other support for victims, such as shelters and counselling, makes it even more difficult, if not impossible, for victims to come forward and report. Furthermore, Somalis usually turn to traditional justice mechanisms based on clan affiliation to solve their disputes and conflicts. In a context of conflict and the lack of a functioning justice system, cases of sexual violence are also adjudicated in such forums.

75. Similarly, the Special Rapporteur notes the **almost non-existence of psychosocial or counselling services** for women survivors of violence. It is recommended that the pilot project initiated by civil society organizations with the assistance of UNDP in Hargeisa¹⁴ be extended to other cities and regions. With respect to the provision of psychosocial support, many social workers have no specific training in addressing cases of violence against women, and they face the problem of extremely limited resources. Likewise, shelters for women victims of domestic violence are unheard of throughout the country.

88. **The Government should consider as a matter of priority the enactment of a law on violence against women. Such a law should contain specific provisions regarding domestic violence (providing for civil and criminal remedies), sexual violence and sexual harassment. The Special Rapporteur believes a specialized law should be holistic and provide victims with preventive and educational measures, as well as protection and assistance measures, and provide for sanctions against perpetrators [...].**

101. **The Special Rapporteur recommends that the donor community focus international assistance programmes on the empowerment of Somali women. [...] Such programmes could be developed in parallel with the provision of infrastructure, such as shelters and centres that provide specialized integrated services for victims of gender-based violence; protective measures for women against discrimination, harassment and violence; and affirmative action projects for women's housing and employment needs.**

Jordan (14 May 2012, A/HRC/20/16/Add.1)

3. The Special Rapporteur had the opportunity to visit the government-run Dar Al Wifaq women's shelter and the Juweidah Reform and Rehabilitation Centre (for women), where she heard testimonies from a number of women. [...].

25. An important gain made by the women's rights movement was the amendment of article 340 of the Penal Code in 2001, which no longer exonerates perpetrators of crimes committed in the name of —honour. However, perpetrators of such crimes may still get more lenient sentences under other Penal Code articles, such as article 98, which reduces penalties for crimes committed in a fit of rage, and article 99, which reduces by half a perpetrator's sentence when he is excused by the victim's family. Interviews with women at risk in both the Juweidah Reform and Rehabilitation Centre and the Dar Al Wifaq women's shelter revealed that family members, particularly younger brothers, are the main perpetrators of violence and killings committed in the name of **honour**. Both activists and government officials explained how families who are already grieving the loss of their daughters, and wishing to avoid further pain, might decide to renounce their right to seek justice and have the perpetrator released from prison earlier. According to a study conducted by NCFR, of 50 cases of murder of women committed between 2000 and 2010, in 78 per cent of the cases perpetrators benefited from reduced sentences due to families waiving their personal rights.

27. An ongoing issue of concern is the **interpretation of preventive detention laws**. The Crime Prevention Act contains some preventive measures that allow Governors to place persons who may constitute a danger to the community in administrative detention. However, this provision is also used to detain women whose lives might be threatened by their families and who are placed in custody —for their own protection. At the

time of the Special Rapporteur's visit, 120 women were in administrative detention in the Juweidah Centre, of whom 25 were women at risk of suffering a so-called honour crime.

28. Whether in shelters or in prison, protective custody seems to be the main system used to prevent violence against women. Although efforts have been made to refer women to the Dar Al Wifaq shelter, it is still common **practice for Governors to sign administrative orders by which women at risk are sent to the Juweidah Centre, when family reconciliation is not possible.** The Special Rapporteur was informed that the release of women from —protective detention is conditional upon the consent of a male relative and/or a guarantor.

72. The Act established —family reconciliation committees to enable parties to find amicable solutions before a case is taken to court. According to article 7 of the Act, — preference shall be given to referrals to **family reconciliation committees** prior to taking any of the protective measure stipulated in this Act, providing that the family's best interest is taken into consideration.⁶⁰ The Special Rapporteur was informed that regulations for the Act were recently adopted and **family reconciliation committees have been established.**

73. The [Protection against Family Violence] Act provides for the court to issue protection orders when necessary and establish penalties against perpetrators for violating protection orders and re-offending. Courts might also establish the payment of compensation to victims (CEDAW/C/JOR/5, para. 29). The Act allows the police to enter a location where victims are at risk and take the necessary measures to protect them from perpetrators. Perpetrators may sign pledges promising not to commit any harm, but the police may also decide to remove perpetrators from the location, based on their risk assessment. Other protective measures include police detaining perpetrators up to 24 hours and courts restricting perpetrators from approaching the shelters where victims are living.

74. Despite positive provisions in this legislation, **obstacles still remain with regard to the definition of violence**, which is limited to violence occurring within the family; the explicit focus on family reconciliation as a preferred solution; and the low levels of implementation of this Act by the courts since it was enacted. The norm is a practice of resolving cases through reconciliation and not through accountability measures such as prosecution and punishment of perpetrators.

78. Finally, specific structures to address violence in the family have been established at the ministerial level in at least three crucial ministries: (b) The Ministry of Social Development is the main institution in charge of providing women victims of violence with services, in cooperation with non-governmental organizations. In 2007, the Ministry established the Dar Al Wifaq shelter to provide lodging and protection for women victims of domestic violence and their children. It is currently leading intergovernmental efforts to establish a new centre for, in particular, women who are at risk as regards so-called honour killings. As with most of the institutional efforts to address this issue, the main goal of the Ministry is to achieve family reconciliation between survivors and their families;

(ii) To provide for sufficient and adequate services and shelters for women victims of violence, including refugee women and migrant domestic workers, including in governorates outside the capital;

(k) Eliminate the practice of protective custody of women in the Reform and Rehabilitation Centres and, together with non-governmental organizations, establish programmes to guarantee long-term rehabilitation and housing solutions for women victims of violence who do not have the support of their families, and/or who are under threat;

United States of America (6 June 2011, A/HRC/17/26/Add.5)

The Special Rapporteur did observe a **lack of legally binding federal provisions providing substantive protection against or prevention of acts of violence against women. This lack of substantive protective legislation, combined with inadequate implementation of some laws, policies and programmes, has resulted in the continued prevalence of violence against women and the discriminatory treatment of victims, with a particularly detrimental impact on poor, minority and immigrant women.** In the light of the above findings, the Special Rapporteur offers specific recommendations that focus on providing remedies for women victims of violence, investigating and prosecuting violence against women in the military, improving the conditions of women in detention and tackling the multiple forms of discrimination faced by certain groups of women that make them more vulnerable to violence.

15. Interlocutors stated that, although every state now defines domestic violence as a crime, it is still not investigated or prosecuted with the same seriousness as other violent crimes. Furthermore, **the police often fail to respond to reports of IPV and/or violations of protection orders, and when they do respond, they do so inappropriately.** It is reportedly not uncommon for **police officers to encourage informal resolution between the parties instead of arresting perpetrators.** This is coupled by a failure to conduct adequate investigations including not enquiring about the presence of firearms, not taking photographs despite visible injuries of victims, and/or not enquiring about perpetrators history of abuse

58. Immigrant women often suffer higher rates of battering as they have less access to legal, social and support services. Battered immigrant women who attempt to flee may not have access to bilingual shelters, financial assistance, or food. It is also less likely that they will have the assistance of a certified interpreter in court, when reporting complaints to the police or a 911 operator, or in acquiring information about their rights and the legal system.

67. [...] VAWA significantly strengthened the criminal justice system's response to issues of violence against women by, among other things, creating new felonies, compelling state and municipal jurisdictions to enforce protection orders, and helping undocumented immigrants who rely on abusers to obtain lawful immigration status [...].

68. The reauthorization of VAWA in 2000 improved protections for battered immigrants, sexual assault survivors, and victims of dating violence; enabled victims that flee across state lines to obtain custody orders without returning to their jurisdictions and improved the enforcement of protection orders across state and tribal lines [...].

70. [...] In 2005, in *Town of Castle Rock v. Gonzalez*, the Supreme Court also ruled that the United States Constitution provides no remedy for a state's failure to enforce a domestic violence restraining order, and

thus protect victims of gender-based violence. Castle Rock was preceded by *DeShaney v. Winnebago Dep't of Soc. Servs.*, where the Supreme Court found that the Due Process Clause of the Fourteenth Amendment does not provide a remedy when state actors fail to take reasonable measures to protect and ensure a citizen's rights against violations by private actors.

80. Domestic violence has increasingly been recognized as an issue that goes beyond the private sphere and that requires the intervention of the State. Therefore, legislation has been developed at federal, state, and local level to offer certain legal remedies to victims of domestic violence and to introduce mechanisms for adequate police response in domestic violence emergencies. Most of these provisions have been provided at the state and local level, through measures such as civil protection orders, mandatory arrest policies, mandatory prosecution policies, and treatment programs for abusive partners.

81. Civil protection (or restraining) orders are generally available on an emergency basis through a simple application to a court, and can be obtained without the help of an attorney. Civil protection orders can include provisions relating to contact with the victim, exclusion of the perpetrator from the home, and custody, visitation and child support obligations, if relevant. A violation can result in civil and/or criminal penalties.

82. Some States have enacted mandatory arrest (or pro-arrest) laws, requires police officers to make an arrest when someone has engaged in a domestic violence crime or has violated a protection order. The Special Rapporteur was informed that these measures, which are intended to reduce police discretion in responding to domestic violence, were in many cases adopted to comply with some of the grant conditions applicable to VAWA.

84. The Special Rapporteur visited the Hennepin County Domestic Abuse Service Center in Minnesota, which offers services to victims of domestic violence. An innovative feature of this center is that it houses, in the same building, several state and non-state agencies that help victims during the entire judicial process. Advocates at the Center not only help victims complete the necessary paperwork to request a Protection Order and explain the civil and criminal court process, but they also accompany victims to court, help them create safety plans for themselves and their families, assist in finding shelter or temporary housing, and refer them to other resources and service providers.

96. Currently, three protective avenues exist for immigrant women who are victims of violence. Victims of domestic violence who are the child, parent, or current/former spouse of a United States citizen or a permanent resident and are abused by that person may be **eligible to apply for a green card without needing the abuser to file for immigration benefits on their behalf**. VAWA created this self-petitioning provision of the law. VAWA also created the T nonimmigrant visa and U nonimmigrant visa. The T visa is a form of immigration relief that provides status to victims of human trafficking, enabling them to live and work in the United States as well as bring certain family members to the country. In order to be eligible for a T visa, a victim must show cooperation with law enforcement requests for assistance in the investigation or prosecution. Minor victims and victims who have suffered severe trauma are exempted from this requirement. The U visa is a nonimmigrant status that affords protection to undocumented victims of certain crimes. It was created to facilitate the reporting of crime to law enforcement by a population known to underreport crime victimization due to immigration issues. The discretionary granting of such a visa does not require that a victim or perpetrator be in legal immigration status. The applicant must be a victim of

qualifying criminal activity and have suffered substantial physical or mental abuse as a result of the crime, possess credible and reliable information about the qualifying criminal activity, and be helpful to the investigation and/or prosecution of that qualifying criminal activity. Domestic violence is one of these qualifying criminal activities and reportedly, one of the top crimes immigrants petition for.

101. Lacking the necessary criminal authority to prosecute non-native offenders, tribal courts have used civil laws and remedies to respond to cases of violence against women. These include civil contempt proceedings, banishment, suspension of certain tribal benefits, and issuance of tribal protection orders, monetary penalties, community service, and restitution, among others. Furthermore, Indian nations regularly issue civil protection orders to prevent future violence and award temporary custody of children, to both native and nonnative women in their jurisdiction. Tribal authorities enforce these protection orders on their land, but once women leave tribal land, they must rely on other jurisdictions, mainly at the state level, for their enforcement. The Special Rapporteur was informed that many States do not recognize or enforce tribal protection orders.

109. Other crucial services for victims are provided through the Family Violence Prevention and Services Act (FVPSA) which provides federal funding dedicated directly to domestic violence shelters and programs. FVPSA is administered by the Department of Health and Human Services, and funds essential services such as emergency shelters, hotlines, counselling and advocacy, and primary and secondary prevention. FVPSA also supports services provided by more than 200 Indian tribes.

110. Advocates noted that many of these programs report critical shortages of funds and staff to provide emergency shelter, housing, child care and legal representation. The National Census for Domestic Violence Services found that in one day in 2010, over 70,648 adults and children received services at 1,746 domestic violence programs nationwide. Yet, on that same day, over 9,541 requests for services went unmet due to a lack of resources.

(d) Establish meaningful standards for enforcement of protection orders and impose consequences for a failure to enforce.

(c) Establish federal and state accountability for the investigation and prosecution of violent crimes against Native-American women. The government should also ensure that state authorities recognize and effectively enforce tribal court protection orders.

113. Nevertheless, the lack of substantive protective legislation at federal and state levels, and the inadequate implementation of current laws, policies and programs, has resulted in the continued prevalence of violence against women and the **discriminatory treatment of victims**, with particularly detrimental effects on poor, minority, and immigrant women.

Zambia (2 May 2011, A/HRC/17/26/Add.4)

3. The Special Rapporteur had the opportunity to visit a women's shelter run by civil society organizations in Lusaka [..].

25. Violence against children and particularly girl children is also pervasive in the country. A number of illustrative cases were brought to the Special Rapporteur's attention. These include the case of G.M., a 13-year-old girl, who was raped by the uncle she was living with following her mother's death. G., a 14-year-old girl, was sexually abused at the age of six by her three older stepbrothers, while B.M., an orphan from Chinsali, was **continuously raped by the uncle who was providing her with shelter and education.**

38. This [Anti-Gender Based Violence] Bill [2010], which, according to stakeholders, went through a highly consultative process, is believed by many to introduce important innovations. It stipulates that one single act may amount to gender-based violence (Section 4); it focuses on protecting the victims, including removing them from violent environments and making provision for the creation of Government-run shelters [...].

70. Additionally, offences related to violence against women are bailable according to section 123 of the Criminal Procedure Code, which permits bail upon provision of sufficient sureties except in cases of murder, treason, aggravated robbery and theft of motor vehicles if a person is a subsequent offender. If the offender is admitted to bail, he may intimidate the witnesses and the victims, especially when they are related or know each other.³³

81. The Special Rapporteur noted that there are **no policy guidelines across the health, psychosocial, or legal sectors mandating coordinated, prompt and supportive services to victims.** Counselling services are generally not available except in some of the shelters run by civil society organizations and some of the one stop centres existing in certain hospitals. With respect to the provision of psychosocial support, many social workers have no specific training in addressing cases of violence against women, have little institutional support, large caseloads, and extremely limited resources, thus resulting in difficulties in providing adequate services to victims.

85. Another major gap is the fact that the Government has not so far funded any shelter to house victims of abuse and violence who run away from their abusers. Currently there appear to be approximately eight safe houses including shelters and drop-in centres run by the Young Women's Christian Association and the A Safer Zambia (ASAZA) coalition. While commending the work of civil society organizations in filling this gap, the Special Rapporteur noted with concern that the due diligence obligation to protect women from violence rests upon the State.

87.[...] **Women's access to justice and protection is impeded by generalized impunity, limited numbers of shelters, lack of or insufficient legal representation and limited awareness of their rights [...].**

91. [...] **the Fund to be established in accordance with this bill should aim at strengthening and ensuring continuity in the work that civil society organizations have been commendably doing, including the running of shelters for and the provision of coordinated responses to women and girls victims of violence.**

³³ The Anti-Gender Based Violence Bill provides for protection orders to address concerns related to witness and victim protection

Algeria (19 May 2011, A/HRC/17/26/Add.3)

3. The Special Rapporteur had the opportunity to speak with women survivors of violence at the SOS Femmes en Détresse shelter in Algiers, the Government-run shelter for girls and women in Bou Ismail, and the Diar Rahma of Oran and Constantine.

6. Following an analysis of the State response to those manifestations and the remaining challenges at the legal and institutional levels, the Special Rapporteur called on the authorities of Algeria to take action (a) to ensure the protection of women through further legislative reforms;.. (c) to strengthen the State's capacity to provide protective measures to women facing violence; [..].

69. Insufficient specialized shelters continue to be of concern and contribute to the invisibility and silencing of women and girl victims of various forms of violence.

70. Non-governmental organizations manage most of the essential support services for women victims of violence and abuse in the country. While only two of them offer shelter facilities, the others mostly offer psychological, medical and legal assistance on issues pertaining to domestic violence, divorce and housing. Largely dependent on donor support, these centres are insufficient in number, lack human and material resources and are almost exclusively concentrated in urban areas. In the field of sexual harassment, the hotline launched by the National Commission of Women Workers of the General Union of Algerian Workers continues to provide advice to victims of sexual harassment. While commending the work of civil society organizations, the Special Rapporteur notes that the due diligence obligation to protect women from violence rests primarily upon the State and its agents. It is therefore the responsibility of the Government of Algeria to ensure accessibility and availability of effective protection and support services to victims of violence.

71. There are two Government-run specialized shelters for women victims of violence, in Boui Ismail and Tlemcen, both with very limited capacity. In the absence of sufficient shelters, police and social services officials continue to direct women escaping violence to Diar Rahma institutions. These institutions accommodate a wide range of persons in need of State support, including the homeless and mentally and physically disabled persons. The Special Rapporteur praised the holistic approach adopted by the latter institutions, which provide integrated services, including medical, legal and psychological assistance, vocational training and housing support. However, she would like to remind the Government that victims of gender-based violence require that such a holistic approach be implemented in specialized settings, where there is expertise to address victims' needs.

72. The Special Rapporteur expressed concern at the focus put by staff in both the Government-run shelters and Diar Rahma institutions on counselling and mediation, and recalled the negative consequences that this could have, by perpetuating violence and abuse. One woman who shared her testimony with the Special Rapporteur explained that staff at the Diar Rahma made her abusive husband sign a letter in which he pledged to never inflict violence on her again. She was severely battered the very day he signed the letter and took her back home, and she had no other choice but to return to the Diar Rahma in search of protection. No complaints were filed against her husband.

73. Another remaining issue of concern is the involvement of the above institutions in arranging and facilitating marriages between victims and men who are searching for a wife. Despite the thorough scrutiny by staff of men before facilitating a marriage, the Special Rapporteur warned about the high risks involved in these practices, particularly bearing in mind the fragile psychological state of victims ...

82) (b) Ensuring that women living on the streets, divorced, separated, deserted or widowed women, as well as women living on their own, benefit from special protective measures against all forms of discrimination, harassment and violence;

El Salvador (14 January 2011, A/HRC/17/26/Add.2)

2. The Special Rapporteur had the opportunity to speak with the staff and women survivors of violence at a women's shelter in San Salvador and to hear the testimonies of women and girls in Colony San Jacinto and the rehabilitation centre for women in Ilopango.

50. [...] From 2004 to March 2009, the Institute's family relations improvement programme provided 103,453 counseling sessions and 51,228 group therapy sessions, assistance by social workers to 64,563 people, temporary shelter to 879 victims, and phone assistance to 215,273 victims.³⁴

51. The Institute for the Comprehensive Development of Children and Adolescents, the leading agency for the implementation of the national policy for the comprehensive development of children and adolescents, operates a national network of 12 shelters that provide secure housing, 24-hour medical attention, **psychological counseling and vocational workshops to victims of abuse, including trafficking victims**. In 2008, the Institute registered a monthly average of 315 cases of children and adolescents requiring protection from violence. Pending the entry into force of the law on the comprehensive protection of children and adolescents, which will transform the Institute into a research and statistical body, discussions are ongoing on how to ensure the proper transfer of approximately 15,000 protection files from the Institute to the three specialized courts for children that will be created under the law.

52. A number of challenges remain, however, including the drafting of legislation relating to trafficking in persons, the establishment of permanent mechanisms ensuring institutional coordination, the creation of 20 A/HRC/WG.6/7/SLV/1. A/HRC/17/26/Add.2 **15 shelters for adult victims of trafficking**, and the establishment of a system to monitor and follow up on cases of trafficking.

59. The **pervasiveness of patriarchal attitudes in the law enforcement and justice system**, coupled with a lack of resources and insufficient knowledge on existing applicable legislation, has led to inadequate responses to cases of violence against women and the persisting social acceptance of such acts. The testimonies of victims of domestic violence who attempted to find access to the legal system show that, unless violence results in serious physical injuries, the police, prosecutors and justices of the peace tend to minimize offences in the belief that domestic violence is a private matter. As such, **they discourage victims from pursuing cases and promote conciliation**, thus returning victims to situations of abuse. **Cases of**

³⁴ A/HRC/WG.6/7/SLV/1.

domestic violence are often treated as administrative rather than criminal offences, or are classified as misdemeanours.

60. Civil society organizations researching the phenomenon of femicide expressed concern at the **lack of proper standards of investigations into reported cases.** In their view, this is primarily due to the absence of institutional coordination among the Office of the Procurator-General, the National Civil Police and the Institute of Forensic Medicine, the **absence of a reliable structure for the protection of victims and witnesses,** and the reluctance of law enforcement and judicial structures to recognize the gender-based nature of such violence.²² The Office of the Procurator for Human Rights noted that the majority of the 2,660 cases of murder of women recorded from 2001 to May 2009 remain under investigation and unpunished.²³ Relatives of victims of brutal murders referred to instances where their requests for investigation were treated with disregard and indifference by police and prosecution and judicial authorities.

64. The main causes for low levels of reporting include **weaknesses in the criminal justice system,** also in measures for victim and witness protection, and the lack of adequate training of law enforcement officials to register and investigate complaints and support prosecutions (for example, see the case study below).

- Case study Maria's case.³⁵

(iii) Develop indicators on the State response to violence against women, illustrating the realization of rights through prevention and protection measures, as well as remedies. Their accuracy will largely depend on ensuring that all reported and identified cases are recorded and can be traced through an effective tracking system;

(ii) Recognizing femicide as a separate category of crime. The Committee of Experts of the Mechanism for Follow-up on the Implementation of the InterAmerican Convention on the Prevention, Punishment and Eradication of Violence against Women stated in its declaration on femicide of 15 August 2008 that States must guarantee increased and enhanced access to justice for women by improving the system for criminal investigation and the protection of women affected by violence, by including forensic expertise, enhancing court proceedings to eliminate impunity for perpetrators and adequately punishing public officials who do not exercise due diligence in those proceedings;

³⁵ After years of physical and psychological violence inflicted by her husband, Maria reported the situation to a justice of the peace and obtained a protection order for her and her three children. Following the procedure, she was referred to the psychosocial attention centre of the Supreme Court of Justice, where she was accused of provoking the violence and persuaded to stay in the marriage because of the "obedience she owed to her husband". Maria's daughter, aged 9, went through significant emotional distress as she was questioned about her mother's alleged "boyfriends and lovers". For months, Maria's husband continued to harass her and her children physically and verbally, systematically violating protection measures, without any intervention by the police or the Office of the Procurator General despite her numerous complaints. With the support of women's rights organizations, Maria filed for divorce, which she obtained after months of bureaucratic procedures and psychological tests. While she obtained the custody of her three children and a monthly amount of \$200 for child alimony, Maria received no compensation of any kind for the violence endured throughout her marriage. Her precarious earnings have forced her to sell her belongings to pay the school fees of her two youngest children and move to a smaller apartment. Her oldest son lives with his father and is reportedly replicating his violent behaviour towards women.

(vi) Ensuring, in consultation with civil society organizations, the elaboration of a comprehensive law on violence against women that criminalizes all forms of violence and encompasses issues relating to prevention, protection, victim empowerment and support, including the availability of remedies for survivors and adequate punishment for perpetrators. It is essential that the justice system be allocated adequate budgetary and human resources to ensure effective implementation and monitoring mechanisms;

Kyrgyzstan (28 May 2010, A/HRC/14/22/Add.2)

The Special Rapporteur had the opportunity to speak with the staff and women survivors of violence at a women's shelter in Bishkek and children and the staff of a child rehabilitation centre for street children in Osh, and to visit the Stepnoe women's prison and Pretrial Detention Facility No. 5 in Osh.

58. The adoption in 2003 of the Law on Social and Legal Protection from Domestic Violence represents a practical step towards defining and addressing violence in the family [...] The law provides for a number of remedies for victims of family violence, including filing a complaint, obtaining a protection order, and addressing the local court of elders (Aksakals). It further specifies that victims have the right to such services as transportation to a medical institution for care, accommodation in a safe place and information on personal safety and legal aid.

59. Provisions relating to the possibility of obtaining an interim or court protection order are especially noteworthy. An interim protection order, valid for a period of up to 15 days, can be issued by a local law enforcement officer to a person who has committed or threatened to commit an act of family violence. Among others, this order prohibits the perpetrator from committing any acts of violence or having contact with the victim and obliges him to pay for related medical treatment. In addition, victims may apply for a court protection order, which can be issued for a longer period of between one and six months and lead to administrative or criminal proceedings if violated.

61. At the time of the visit by the Special Rapporteur, reforms to the Law on Social and Legal Protection from Domestic Violence were being considered, including possible changes aiming to refine and expand the definition of family violence and render protection orders more operational.

74. These practices and the lack of sufficient police training on relevant legislation and the nature of violence against women result in a **failure to register and investigate complaints**, take meaningful protective measures (e.g. protection orders) and support prosecutions for such crimes. Practical problems relating to the lack of printed forms used to issue protection orders also means that some police are not aware of and do not have access to these orders in their day-to-day work.

75. The number of protection orders issued annually varies considerably. There is a notable increase in usage as indicated in statistics: 95 were issued within the first four months of 2008, as compared to a total of 62 in 2004.⁷⁰ According to information received from the Ministry of Internal Affairs subsequent to the mission, there has been an even greater increase in the number of protection orders issued by district police in 2008–2009 and relevant departments in all districts were issued with the necessary forms for this purpose. The Ministry further highlighted other notable efforts undertaken during 2008–2010, including training of staff of

the Ministry, the production of guidelines and informational notes for the police as well as the general population, participation in parliamentary hearings devoted to the implementation of the Law on Social and Legal Protection from Domestic Violence and the conduct of an independent monitoring of the implementation of that law.⁷¹ While these initiatives are indeed encouraging, they require sustained implementation over time, as well as more outreach to both the police and the general population so as to address negative practices and a general lack of information. Despite a rise in the numbers of temporary orders issued, many believe that, in the context of the large number of cases of domestic violence in Kyrgyzstan, the figures are still very low.

78. In many cases of human trafficking, however, the victims do not reach the courts, while others are allegedly reclassified as lesser crimes such as “fraud”. They turn instead to crisis centres. Of the 368 persons to whom SEZIM, a crisis centre in Bishkek, provided shelter, 128 were trafficking victims.

80. According to a Government survey, 85 per cent of women were not aware of the existence of specialized institutions such as crisis centres and shelters which could provide them with information, support and temporary shelter. There are no State-run crisis centres or shelters for women victims of violence in Kyrgyzstan, despite the fact that the legislation on family violence provides for the establishment of such centres.

81. There are a total of eight crisis centres in the country, mainly supported by international organizations, although a few, such as the SEZIM crisis centre, receive some limited State assistance which provides them with the use of a building and utilities. These centres are underfunded and rely mainly on international funds which are typically for short-term activities rather than operating expenses. Despite their meagre resources, according to Government statistics, the number of women referred to these crisis centres has been steadily increasing, from 2,072 in 2004 to 3,731 in 2007.

83. This raises concerns that cases of violence against women which potentially fall under the scope of the Criminal Code are brought instead to a community dispute mechanism whose task is to promote reconciliation, often at the expense of the woman’s wellbeing and which cannot issue protection orders, detain or imprison the abuser. This reconciliation role played by Aksakal courts is praised by some Government and nongovernmental organizations, who view saving the marriage as the priority ...

88. **Insufficient social welfare provisions** have further eroded women’s economic and social position, resulting in increasingly inferior negotiating positions within society and in the **family**. This is reflected in the rise of marriage practices such as bride-kidnapping, polygamous unions, early marriage and the rise in unregistered religious marriages, which undermine the rights of women and increase their vulnerability to all forms of violence. Their access to justice and protection is impeded by **limited numbers of shelters**, legal aid services and awareness of their rights, as well as by economic dependency and the reluctance by law enforcement structures and society at large to recognize numerous forms of violence as crimes requiring serious attention.

92. Elimination of violence against women and girls:

- **Commit sustainable State support to women and girls’ crisis centres, including in areas currently not serviced.**

- **Establish information and assistance centres for women and girls at risk who have moved from rural to urban centres.**
- **Undertake reforms with regard to temporary and court protection orders and adopt practical measures to facilitate their implementation.**

Moldova (8 May 2009, A/HRC/11/6/Add.4)

23. The perpetrators of violence against women are often family members, overwhelmingly husbands or former husbands (73.4 per cent), followed by fathers or stepfathers (13.7 per cent) and mothers or stepmothers (7 per cent). Staff at the shelter in Chisinau indicated that husbands of many of the women who seek help at the shelter are either police officers or from the military, which makes it far more difficult for these women to escape the violent environment and seek divorce

49. The Law defines what constitutes domestic violence, applicable both to cases of cohabitation and separate habitation, distinguishing, inter alia, among physical violence, sexual violence - including marital rape - or psychological violence. Clearly specified in the Law are not only the competencies of the central and local administration authorities, but also those of the centres and services of rehabilitation for victims. In addition, it contains a number of important provisions, such as on the security of the victim as a human rights principle, the possibility for third party complaints and granting of protective orders within 24 hours of receipt of the complaint, obliging the perpetrator to stay away from the victim, her children or other dependants.

53. The Anti-Trafficking Code also improves the **protection of the participants in criminal proceedings** and increases penalties prescribed for human traffickers up to life imprisonment.

68. Law enforcement agents I spoke with attributed the low number of prosecutions of domestic violence cases to the withdrawal of claims by the victims themselves, without questioning why this is so. Although the Criminal Code provides for the prosecution of cases involving serious injuries without the consent of the victim, in practice, law enforcement agents rarely pursue the prosecution of a domestic violence case without the victim's cooperation. Importantly, the new Law to prevent and combat violence in the family addresses these issues by calling on the administrative bodies of the Ministry of Interior to: identify, record and report cases of family violence; ensure basic records of aggressors; visit families with records of family violence and undertake preventative activities to avoid repeated acts of violence; ensure the administrative arrest of the aggressor; in emergency cases, obtain a protective order from the court; inform victims of their rights, including the right to free legal counsel; and provide assistance with placement in rehabilitation centres.

72. [...] Reportedly other problems linked with prosecutions [of trafficking cases] include: **violation of legal procedures during in-court proceedings, in particular regarding witness protection and confidentiality; the failure to seek forfeiture of criminally derived assets; and the failure to award compensation to victims.**

72. Despite this progress, the reporting and prosecution of trafficking cases has yet to overcome a number of obstacles. In many cases, prosecutions are initiated long after the victim is recruited, making it difficult to gather evidence. Often times, law enforcement agents lack training on victim identification and interviewing

techniques and subject the victim to repeated interviews during the investigation, thus increasing the possibility of re-traumatization. On many occasions, victims change their mind about participating in criminal proceedings in order not to endure further stigmatization or because of pressure and intimidation from traffickers. Reportedly other problems linked with prosecutions include: violation of legal procedures during in-court proceedings, in particular regarding witness protection and confidentiality; the failure to seek forfeiture of criminally derived assets; and the failure to award compensation to victims.

74. Non-governmental organizations (NGOs) manage most of the essential support services for women victims of violence and abuse in the country. Many of them offer psychological, medical and legal assistance but, due to lack of financial resources, they cannot offer shelter facilities. These centres are largely insufficient in number, lack human and material resources, and are almost exclusively concentrated in urban areas. In addition, the lack of a clear mapping or a comprehensive database on the existing infrastructure for women subjected to violence renders the identification of support services extremely difficult for victims in the Republic of Moldova.

75. There is one main shelter in the country - Casa Mariorarei - where domestic violence victims and their children can take refuge. This shelter, located in Chisinau, offers psychological, social and legal counselling and operates a hotline for actual and potential victims of violence and abuse. It presently offers 24 beds for women and their children, who stay on average one month in the shelter. Despite the fact that the building has been provided by the Mayor's Office free of charge, the shelter operates with insufficient material and human resources and is largely dependant on donor support. Five other centres providing more limited assistance to victims of domestic violence also exist, including two day centres which offer counselling and support to victims of domestic violence and three maternity centres which offer temporary/crisis shelter and counselling services. Article 10 of the Law to prevent and combat violence in the family defines the actors that can create centres for rehabilitation of victims of family violence and sets out the modalities for their operation.

76. Support services to victims of trafficking are mostly provided through NGOs with the support of international organizations [...] The main goal of [National Referral System] is to combat trafficking in human beings by coordinating the efforts of national and local state institutions and civil society, and provide comprehensive short- and long-term assistance to actual and potential victims through a series of measures. These measures include: (a) raising awareness and reducing vulnerability through different initiatives, particularly in the fields of housing and employment; (b) prosecution/special assistance programmes for witnesses in legal proceedings through a strong partnership with the CCTP; and (c) identification, repatriation, rehabilitation and long-term reintegration services for victims of trafficking. Proposals to expand NRS throughout the country, including to victims of domestic violence, and to make it sustainable are currently under way.

77. There is one major shelter for victims of trafficking in the country - Rehabilitation Centre for Victims and Potential Victims of Human Trafficking - located in Chisinau with a capacity for 24 victims who stay on average three to four weeks. This shelter, operated by IOM with the support of various donors, provides medical, psychological, social and legal counselling to victims of trafficking. The adoption of Government Decision No. 847 on 11 July 2008 foresees an increased Government involvement and eventual ownership of the Centre.

78. In addition to other projects run by private donors, the United Nations Development Programme (UNDP) has established a network of youth and maternal centres that provide social assistance, job training and develop entrepreneurship activities for women and youth who have been victims of trafficking and other forms of violence, including domestic violence.

79. In the Transnistrian region of the Republic of Moldova, while there is no specific infrastructure for responding to domestic violence cases, IOM has implemented a comprehensive counter-trafficking prevention and protection programme in cooperation with a local NGO partner. In addition to a hotline that provides confidential information on migration and trafficking, which has received almost 3,000 calls since its launch in 2006, the project also provides legal assistance, vocational training, support with job placement and start-up grants for small businesses to victims of trafficking.

83. Furthermore, the **predominant approach to crimes against women is a punitive one rather than preventive, protective and corrective**. Reporting of such crimes continues to be low and their investigation, prosecution and conviction are poor. Given that crimes against A/HRC/11/6/Add.4 page 24 women are largely hidden or socially condoned, combating the problem is challenging, as it is both difficult and costly, and has minimal political returns in the short term. However, the Government is obligated under international and domestic law to embrace this challenge with strong political will and determination. This requires first and foremost: a recognition of the link between women's status and the diverse forms of violence against them; fundamental shifts in mentality and effective policies and programmes, including vigorous public awareness campaigns, training programmes for law enforcement and judicial staff, as well as health professionals; promoting and supporting women's empowerment; and partnership with civil society in building a strong and **reliable infrastructure for the protection of victims of violence**.

(h) Ensure that all those who are involved in the trafficking and sexual exploitation of women and girls are duly prosecuted and punished to the full extent of the law, while guaranteeing the victims' right to protection and **confidentiality**.

Tajikistan (29 April 2009, A/HRC/11/6/Add.2)

32. [...] In early 2008, 60 persons had visited the IOM shelter in Dushanbe since its creation, while 34 minor victims of trafficking received assistance in the Khujand shelter from 2006 to early 2008 [...].

66. There is underreporting of violence against women and girls. Revealing domestic problems to the outside or seeking divorce are considered inappropriate behaviour for women. Lack of a protective infrastructure and practices by law enforcement and judicial bodies further hamper better reporting.

67. [...] Another problem is the **lack of mechanisms under the Police Law** that would enable the police to protect women who report domestic abuses, especially with respect to **issuing restraining or protection orders**. The level of cooperation between the police and crisis centres is also less than desirable, although some crisis centres systematically provide information on domestic violence cases to the local police. There are a few specialized police departments which formally record and examine claims of domestic violence, but these remain exceptions.

69. Investigation and prosecution of domestic violence appears limited to the most egregious forms of physical or sexual violence. **One of the reasons is the lack of a specific definition of domestic violence and related penalties and protective measures in existing legislation.** The Criminal Code provides for penalties on hooliganism, systematic humiliation, minor to serious bodily harms, rape, premeditated murder, all used by the police and the Procurator's Office to address cases of domestic violence. Only serious bodily harm is prosecuted by the Procurator's Office, and the threshold is very high.⁶² Less severe harm, humiliation or hooliganism can be the object of fines but will not give rise to prison sentences or protection measures for victims. Further, the Criminal Code does not mention psychological/emotional violence, which therefore cannot be prosecuted.

76. There are two shelters for victims of trafficking in Tajikistan, but only one for victims of all other types of violence, located within the crisis centre of Khujand since 2005; 154 women had used the shelter up to May 2008, because of domestic violence, rape, or housing and other personal crises. The shelter offers six beds only as it cannot afford larger housing facilities. At the same time, the health sector is neither adequately equipped nor trained to offer appropriate medical or psychosocial services to victims of violence. There is also a lack of long-term housing or programmes which would enable women to start leading an independent life.

77. There is no institution in Tajikistan for children victims of abuse, and none that provides specialized assistance for girl victims. Instead, children are placed along with other abandoned, neglected and criminal children in poorly run State institutions, as discussed earlier in this report. A planned "girls' support centre", which would offer psychosocial and residential services for girls at risk and victims of sexual abuse/violence, will considerably improve the situation.

82. As a result, women's subordination has deepened, increasing their susceptibility to abuse and violence, which is experienced in silence and condoned by society at large. **Lack of a protective infrastructure,** women's legal illiteracy and issues pertaining to marriage registration, residency, and the rise of early and polygamous marriages further aggravate their vulnerability to abuse and prevent them from escaping it.

84. **In light of the above, I would like to make the following recommendations to the Government of Tajikistan, many of which are relevant to international organizations and donor agencies:**

- **Ensure that adequate funding for crisis centres is provided, and increase the number of shelters, bearing in mind geographical coverage**
- **Establish centres that provide psychosocial, legal and residential services to girls under 18**
- **Adopt the Bill on Social and Legal Protection against Domestic Violence, including provisions for protection and restraining orders, and provide adequate funding and instructions to relevant State bodies for its implementation**

Saudi Arabia (14 April 2009, A/HRC/11/6/Add.3)

2. The Rapporteur had the opportunity to visit various social protection centres where I spoke with women survivors of violence and domestic workers as well as detainees at the women's prison in Riyadh.³⁶

68. [The National Programme for Family Safety] has recently been expanding its work on domestic violence, offering training, health services, and assistance to women in filing complaints with the police and obtaining the required legal medical report. NPFS has also arranged for emergency shelter, longer-term accommodation in some cases, and foster parents for abused children.

69. Since January 2008, NPFS and the Ministry of Health have started setting up family protection centres in every hospital in the Kingdom, composed of trained staff to identify and address cases of abuse. At the time of my visit, a directive informing all hospitals about the plan to set up those centres had been sent and staff training had begun [...]

70. Since 2004, the Ministry for Social Affairs has also run social protection committees in all provinces, in which other relevant ministries are represented. They receive complaints of psychological and physical abuse from women and children, make recommendations to address them, and provide psychosocial and medical assistance. Representatives of the ministry explained that women in need of **long-term housing could benefit from the ministry's regular social-welfare programme.**

b) Enhance the protection and services offered to victims of abuse by social protection committees, including through legal aid and empowerment programmes

c) • Set up a training programme for judges with the Higher Institute for Judges, in cooperation with the Ministry for Justice, to address the international obligations the Kingdom has pledged to respect, including those pertaining to women's rights and the protection of women from violence

(d) Migrant workers:

• Provide shelters, psychosocial and legal aid to migrant victims of abuse

Democratic Republic of the Congo (28 February 2008, A/HRC/7/6/Add.4)

³⁶ 46 The famous case of "the Qatif girl" highlights some of the difficulties in ensuring that victims of sexual violence receive adequate consideration and protection. In 2006, the 19-year-old girl and her male companion were abducted and she was raped by seven Saudi men. Four of the men were sentenced to one to five-year prison terms and to flogging, ranging from 80 to 1,000 lashes. The rape victim and her companion were sentenced to 90 lashes for the crime of khelwa, an offence under sharia law of being alone in private with an unrelated member of the opposite sex or "illegal mingling". The sentence against the girl was later increased to 200 lashes and a six-month prison term. She was ultimately pardoned by the King, although he did not imply there had been any judicial misconduct.

While some women rationalize the system as necessary for their protection and express pride in being such "pampered Saudi women", others complain that the system is a denial of their intellectual capacities, moral values and legal capacity as adults. Guardianship indeed severely limits women's autonomy, freedom of movement and the exercise of their legal capacity in relation to marriage, divorce, child custody, inheritance, and property ownership/control, as well as decision-making in family matters, education and employment. In general, the guardianship system renders women's legal position precarious.

71. Some of my interlocutors expressed concern that the performance and approach of social protection committees varied and the manner in which they dealt with family conflicts often discouraged women from escaping abusive relationships. Officials underlined that the aim of the committees was to preserve family unity rather than impose untimely changes on society. While the intention is understandable, this should not come at the cost of women's protection from abuse and redress.

Women survivors of rape have suffered severe physical and psychological injuries, but still lack sufficient care. **Survivors are often rejected by their families, stigmatized and systematically denied justice and the compensation to which they are entitled under international and Congolese law.** Extreme sexual violence used during the armed conflicts seems to have eroded all protective social mechanisms, unleashing the exercise of brutal fantasies on women's bodies. Civilians are increasingly among the perpetrators of rape, which adds another layer of oppression for women. If the sexual violence associated with war is addressed in isolation, gender-based discrimination and violence endured by women in "peace" will be grossly neglected and the war on women reinforced.

106. The scale and the brutality of sexual violence in the Democratic Republic of the Congo seem to have eroded all protective social mechanisms, unleashing brutal fantasies carried out on women's bodies. Civilians are increasingly among the perpetrators of rape, which indicates a normalization of the war-related violence. This intensifies existing inequalities and oppression of women in society. If the sexual violence associated with war is addressed in isolation, gender-based discrimination and violence endured by women in "peace" will be grossly neglected and the war on women reinforced.

Ghana (21 February 2008, A/HRC/7/6/Add.3)

66. Violence against women branded as witches is reported from all regions, but the issue is more visible in the north due to the existence of so-called "witches' camps". This misleading term refers to settlements established with the consent of the local community, where women accused of witchcraft can seek refuge and protection from persecution by their own community or family. In that sense, **a witches' camp is a protection mechanism comparable to a women's shelter.** In some cases, family members may also join the accused at the witches' camp.

67. During the course of my visit, I visited the settlement in Gambaga (East Mamprusi District, Northern Region), which is officially called the Gambaga Outcast Home.³² Its origins are said to date back to around 1900, when a local Imam took pity on women accused of witchcraft and provided them with refuge. Eventually, the local chief (the Gambarana) assumed this protective role. The Gambarana is thought to be vested with the special spiritual power to determine whether a woman is a witch or not. It is also believed that he can purify witches and extinguish their supernatural powers.

77. Courts now also have the power to issue protection orders. Among other things, courts may order a perpetrator of domestic violence to seek counselling or treatment, pay his victim's medical expenses, and relocate from the common domicile, while continuing to pay rent. If a protection order is breached, courts are to impose fines and/or imprisonment of up to two years.

85. Section 7 of the Domestic Violence Act requires the police to provide victims of domestic violence with the protection the circumstances of each case requires. **Yet, there are almost no facilities to physically protect women at risk of violence.** In the whole country, there is only one women's shelter, which is operated by the non-governmental Ark Foundation and relies exclusively on donor funds. Police often have no choice but to keep women, who have to flee from their home but have nowhere else to go, overnight in the police station, before sending them back to the abusive environment the next day.

86. Under section 8 (4) of the Act, victims are legally entitled to free medical treatment provided by the State in case of emergency or a life-threatening situation, but this norm is not implemented. Instead, State hospitals and doctors charge a fee of 15-30 new cedis (about US\$ 15-30) to issue a medical certificate confirming the abuse. Victims, who are not covered by the Ghana National Health Insurance, have to pay this fee themselves. Unless they find a sympathetic medical doctor who provides the certificate free of charge, poor, uninsured women have to drop their criminal complaint, because they **cannot afford to obtain the medical evidence necessary to secure a successful prosecution.**

93. **In the light of my findings, I would like to make the following recommendations to the Government and other relevant actors:**

- **Support civil society in setting up and running shelters to protect women and children at risk of violence. Provide victims of domestic violence, in accordance with section 8 of the Domestic Violence Act, with free medical treatment, including a free medical certificate documenting injuries suffered;**

Algeria (13 February 2008, A/HRC/7/6/Add.2)

The national machinery for women lacks the legal and financial means to effectively address women's human rights violations. Furthermore, while women are discouraged from denouncing violence to the authorities, the State fails to adequately protect and support those women that do seek justice. This failure manifests itself in **gaps in the legal framework, lack of specialized women's shelters, gender bias among police officers, lax sentencing practices and an inequitable marital property regime [...].**

In addition, the Rapporteur recommend that the Government improve its institutions to advance women's rights by upgrading the national machinery for women in consultation with civil society organizations; [...] **investing in women's shelters, women's help centres and women's rights education;** implementing special support measures for particularly vulnerable women's groups; and adopting a zero tolerance strategy in investigating and prosecuting all cases of violence against women.

2. During the visit the Rapporteur had the opportunity to speak with women survivors of violence at the National Shelter for Girls and Women in Bou Ismail, the shelter of SOS Femmes en Détresse in Algiers and the Diar Rahma of Oran and Constantine.

57. There is a serious lack of specialized shelters for women facing violence or oppression in the family. Although women's shelters do not offer a long-term solution, they provide an indispensable interim protection for women who need to escape violence and oppression at home, but have nowhere else to go.

58. At the time of my visit, the responsible Ministry of National Solidarity operated only one shelter exclusively for women victims of violence and oppression. The National Shelter in Bou Ismail (wilaya of Tipaza) was initially established for young women and girls exposed to violence during the black decade. With a mandate to accommodate women from all over Algeria, it has a capacity for only 24 women. During my visit, construction was ongoing to expand the shelter so that it would also be suited to accommodate women with children. In addition, the Ministry has plans to open a second women's shelter in Tlemcen.

59. The non-governmental organizations S.O.S. Femmes en Détresse and RACHDA, relying on international and private donations, also operate women's shelters in Algiers. At the time of my visit, other non-governmental organizations were in the process of gathering funds for additional shelters.

60. Due to the lack of an adequate number of women's shelters, women who seek State protection are often directed to institutions that do not have the expertise and specialization necessary to address the needs of women victims of violence. These include homes for the elderly and homeless, and Diar Rahma institutions. During the course of my mission, I visited the Diar Rahma in Constantine and Oran. Apart from women facing violence or family exclusion (including single mothers), both Diar Rahma accommodated a wide range of persons in need of State support, including mentally or physically disabled persons. Both institutions placed a heavy emphasis on reconciliation with the family or husband as a long-term solution for women who had experienced domestic violence. Conversely, the two specialized women's shelters visited had established vocational training programmes to provide women with alternatives to a return to the environment from which they had escaped.

61. At all protective institutions visited, I learned to my distress that men regularly approached these institutions in search of suitable wives. Staff allowed or even arranged match-making meetings with women in their care. While acknowledging the obvious risks associated with relationships formed under these circumstances, staff in charge explained that many of the women in their care actively sought marriage as a means to leave the shelter and avoid the difficulties experienced by women living on their own. Although I was assured that the institutions carefully vetted the male suitors before facilitating a marriage, it is questionable whether such efforts can successfully prevent re-victimization.

72. [...] The police and other authorities regularly pick up street women and girls and drop them off in temporary shelters, but the authorities largely fail to offer long-term programmes to support them financially, legally and socially, and reintegrate them.³⁷

97. Women face immense social pressures preventing them from reporting such crimes, while the State fails to encourage, protect and support those women that do want to report them. This failure manifests itself in gaps in the penal and labour law framework; an inequitable marital property regime; the lack of specialized women's shelters; and gender-biased police, as well as lax sentencing practices.

100. In terms of legislative reform, the Government should:

(c) Introduce judicial protection orders to enable the authorities to physically remove and ban perpetrators of domestic violence from their domicile for a specified period of time;

103. In order to provide protection and support for women facing violence, the Government and other relevant actors should:

(a) Carry out a needs assessment in cooperation with the United Nations and non-governmental women's rights associations and set up and run shelters for women facing violence, or provide non-governmental associations with the necessary funds to do so;

³⁷ Observations and comments from the GOA: according to the Government, 76 temporary shelters are available for homeless women, among other groups. In 2006, 6,086 persons, including 2,720 women, had benefited from these shelters.

- (b) Set up and support women’s help centres and telephone hotlines for women and girls facing violence, harassment or family problems;**
- (c) Provide social reintegration training in women’s shelters that gives women a real choice as to whether to seek reconciliation, remarry or establish a life of their own;**
- (d) Ensure that street women, divorced, separated, deserted or widowed women, single mothers and their children, benefit from special protective measures against all forms of discrimination, harassment and violence, including through financial assistance.**