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**Commission on Crime Prevention
and Criminal Justice**

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Item 3 of the provisional agenda*

**Thematic discussions: aspects of violence against women
that pertain directly to the Commission on Crime
Prevention and Criminal Justice**

**Aspects of violence against women that pertain directly to
the Commission on Crime Prevention and Criminal Justice**

Note by the Secretariat

Summary

In Economic and Social Council decision 2007/253 entitled “Topic for thematic discussion of the Commission on Crime Prevention and Criminal Justice at its seventeenth session” adopted 26 July 2007, the Council decided that the topic for the thematic discussion at its seventeenth session in 2008 would be “Aspects of violence against women that pertain directly to the Commission on Crime Prevention and Criminal Justice”, and that those aspects would be elaborated upon during the intersessional period, and requested the United Nations Office on Drugs and Crime to prepare information to guide member States of the Commission in their deliberations. This discussion guide is prepared pursuant to this request.

* E/CN.15/2008/1.

This conference room paper has not been edited.

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I. Aspects of violence against women that pertain directly to the Commission on Crime Prevention and Criminal Justice

1. The Economic and Social Council in its decision 2007/251 decided that the topic of the thematic discussion at the seventeenth session of the Commission would be: “Aspects of violence against women that pertain directly to the Commission on Crime Prevention and Criminal Justice”. The Council also approved the provisional agenda for the seventeenth session of the Commission on the understanding that the provisional agenda, in particular the topic for thematic discussion, would be elaborated upon during the intersessional period.

2. An informal open-ended working group chaired by Mr. Ayman Elgammal (Egypt) was established by the fifth intersessional meeting of the Commission held on 25 September 2007 to consider the structure and focus of the thematic discussion. Following the two meetings held by the working group, the Commission, at its reconvened sixteenth session upon the recommendation of the working group, on 29 November 2007 decided that the thematic discussion on aspects of violence against women that pertain directly to the Commission on Crime Prevention and Criminal Justice would focus on the following sub-theme and topics:

(a) Sub-theme: Successful practices to prevent and eliminate violence against women and criminal justice responses to it, including effective strategies and practices to support the victims of violence: towards an integrated approach;

(b) Topics:

(i) “Successful practices to prevent violence against women”;

(ii) “Criminal justice responses to violence against women, including against women migrant workers”;

(iii) “Effective strategies and practices to support victims of violence, including victims of sexual assault”.

3. The present paper has been prepared as a discussion guide at the request of the Commission. The guide poses a series of questions for discussion by the Commission; these are followed by a background note that outlines major issues in relation to violence against women, including forms and manifestations, economic costs and interventions and responses. The background note further highlights some of the issues encountered by Governments and judicial authorities seeking to meet the challenges posed by this phenomenon.

A. Issues for discussion

4. To debate aspects of violence against women that pertain directly to the Commission of Crime Prevention and Criminal Justice, delegations may wish to address the following issues.

1. Questions on features, forms and dynamics of violence against women

5. What good practices are there to empower women in society against gender-based violence? What is the role of the State in this? Is it relevant to address the marginalization of women caused by poverty?
6. How can the collection of data on gender-based violence be improved? How can the data be correctly and effectively used in designing crime prevention and criminal justice policies and programmes designed to respond systematically and comprehensively to gender-based violence at all relevant levels of government?

2. Questions on preventive measures

7. What tools and processes are in place to permit an accurate sense of the nature and scope of violence against women at national and local levels, as a precondition to developing targeted and effective prevention strategies to vulnerable women and girl child populations?
8. How could the educational system play a role in preventing the intergenerational transmission of culture of gender-based violence? What promising practices have been identified in that regard and who are the key partners? How can the educational system encourage greater integration of anti-violence and gender equality programmes within the curriculum?
9. What community-based initiatives have been shown to be successful in preventing violence against women? What particular measures have been successful for preventing or addressing violence against women migrant workers?
10. What ways are there to comprehensively address the issues of women's safety in personal and public places, particularly at the level of municipalities?
11. What are the good practices of family-based interventions regarding domestic violence?
12. What are the good practices related to preventing male perpetration of violence against women?
13. What kind of offender reintegration programmes have proved efficient in breaking the cycle of violence?
14. How do urban services and infrastructure (for example public transport and design of public places) affect women's safety? What effective responses have been demonstrated in terms of preventing violence against women and reducing women's fear through urban environmental planning?
15. How could media and information technology be used effectively to promote a culture of equality between men and women and a culture of respect and non-violence?

3. Questions on criminal justice responses to violence against women, including violence against women migrant workers

16. What measures can be taken to increase the frequency of reporting of violence against women cases? How can victims be encouraged to report the violence? Are the challenges of reporting different for migrant women workers? How can police practices, especially the first response, be improved to meet the needs of the victim

of violence? How could training help police better understand the situation for victims and reasons for non-reporting, and how they can help meet the needs of victims?

17. What are the obstacles faced in prosecuting and punishing men who perpetrate violence against women and what are the good practices to tackle these? What can be done to put an end to the culture of impunity of perpetrators? Are there measures in place for women migrant workers who are domestics and are particularly vulnerable because their workplace is in private homes?

18. Especially in situations of armed conflict and in post-conflict situations, what measures can be taken to end the impunity of perpetrators?

19. What are the good practices to ensure the protection of victims and witnesses in violence against women cases? What kind of judicial practices, training for professionals, and support services encourage women's testimony in proceedings regarding violence against women? What practices exist for particularly vulnerable migrant women workers?

20. What kinds of alternative justice mechanisms have shown promise in effectively handling cases of violence against women? What kinds of community and justice system supports are needed to ensure the safety of women victims?

21. What kind of bilateral, regional, interregional and international cooperation mechanisms have been established that might provide good practices and practical approaches to addressing violence against women migrant workers? What effective national measures have been taken in this regard?

4. Questions on effective strategies and practices to support the victims of violence, including victims of sexual assault

22. What kind of multidisciplinary approaches, including specialized courts, all-female police stations, and one-stop support services, have been shown to be effective in providing victims the assistance they need to report violence, including legal services?

23. What kind of effective measures can be taken to avoid the re-victimization of women in society and by police, courts, medical professionals and other services?

5. Questions on follow-up by the Commission on Crime Prevention and Criminal Justice and the Twelfth Congress on Crime Prevention and Criminal Justice

24. How should the issue of violence against women be reflected in the work of the Commission on Crime Prevention and Criminal Justice and the Crime Prevention and Criminal Justice Programme in years to come? Fifteen years after the adoption of the *Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice* and nine years after the publication of the Compendium of promising practices, have these instruments proved useful and should they be updated to take into account new developments?

25. How should the issue of violence against women be addressed within the context of the upcoming Twelfth United Nations Congress on Crime Prevention and Criminal Justice?

B. Background note

1. Features, forms and dynamics of the crime of violence against women

26. The 1993 *United Nations Declaration on the Elimination of Violence against Women*¹ defines violence against women as “[a]ny act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”

27. The declaration specifies that this definition encompasses, but is not limited to, “[p]hysical, sexual and psychological violence occurring in the family and in the general community, including battering, sexual abuse of children, dowry-related violence, rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women, forced prostitution, and violence perpetrated or condoned by the state.”

28. The 1995 Beijing Platform for Action expanded on this definition, specifying that violence against women includes violations of the rights of women in situations of armed conflict, including systematic rape, sexual slavery, forced pregnancy, forced sterilization, forced abortion, coerced or forced use of contraceptives, prenatal sex selection and female infanticide. Violence against women has a multifaceted nature, and it is a pervasive violation of human rights and a major impediment to achieving gender equality. It persists in every country and affects all humankind.

29. Women are more at risk of experiencing violence in intimate relationships than anywhere else. In every country where reliable, large-scale studies have been conducted, results indicate that between 10% and 50% of women report they have been physically abused by an intimate partner in their lifetime. Population-based studies report between 12% and 25% of women have experienced attempted or completed forced sex by an intimate partner or ex-partner at some time in their lives. Interpersonal violence is one of the leading causes of death for women 15-44 years of age.² The costs of intimate partner violence to the society are extremely high; for example in the US the total costs are estimated to exceed 5.8 billion US dollars each year.³

30. Also trafficking for sexually exploitative purposes is of grave concern. According to UNODC’s estimates, between 700,000 to 2 million persons are trafficked each year.⁴ According to US State Department, each year 600,000 to 800,000 persons are trafficked across international borders and approximately 80% are women and girls, and up to 50% are minors.⁵ While it is difficult to quantify

¹ General Assembly resolution A/RES/48/104, 20 December 1993.

² Source: WHO. <http://www.who.int/mediacentre/factsheets/fs239/en>.

³ Costs of Intimate Partner Violence Against Women in the United States. Department of Health and Human Services, March 2003. The costs cover medical costs from injuries, lost time at paid and unpaid work, and deaths. See also Secretary-General’s study on violence against women, A/61/122/Add.1, Annex.

⁴ UNODC, *Trafficking in Persons – Global Patterns*, 2006.

⁵ US State Department, *Trafficking in Persons Report 2007*.

precisely, it is commonly estimated that the majority of transnational victims are trafficked into commercial sexual exploitation.

31. Violence against women during or after armed conflicts has been reported in every international or non-international war zone. Women's bodies have become weapons of armed conflict – women are raped, abducted, humiliated, forced into sexual slavery with additional consequences flowing such as forced pregnancy, increased risk of sexually transmitted infections and other physical as well as emotional consequences. In Rwanda, up to half a million women were raped during the 1994 genocide. The numbers were as high as 60,000 in the war in Croatia and Bosnia-Herzegovina.⁶ UN Emergency Relief Coordinator has reported that more than 32,000 cases of rape and sexual violence have been registered in the Democratic Republic of the Congo in the South Kivu Province alone since 2005.⁷ Sexual and gender-based violence is expressly recognized as among the gravest breaches of international law in the 1998 Rome Statute of the International Criminal Court (ICC).⁸

32. Violence against women encompasses human rights, health, criminal justice, and economic and social justice dimensions. It arises from a combination of individual and psychological characteristics as well as social, cultural, economic and political factors. Accurate and comparable data on violence against women are needed to strengthen advocacy efforts, help policymakers understand the problem, and guide the design of preventive interventions.⁹

2. Violence against women addressed in the United Nations

33. Extensive work has been undertaken by the international community to address male violence against women. There have been a number of resolutions and other instruments adopted both within the Commission on Human Rights, the Commission on Crime Prevention and Criminal Justice, and the General Assembly in relation to violence against women. In 1999 the General Assembly designated 25 November as the International Day for the Elimination of Violence against

⁶ Vlachova, BIASON (editors). *Women in an Insecure World*. Geneva Centre for the Democratic Control of Armed Forces. 2005.

⁷ John Holmes, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. *Congo's Rape War*, Los Angeles Times, 11 October 2007.

⁸ The use of rape and sexual violence has in a number of cases been found to constitute some of the most severe crimes recognized by international law. In the Akayesu case (Case No. ICTR-96-4-T) from the International Criminal Tribunal for Rwanda, the tribunal underscored that rape and sexual violence can constitute genocide and crimes against humanity. In the Celibici case (Case No. IT-96-21-T), from the International Criminal Tribunal for Yugoslavia, the systematic rape of women at Celibici prison camp was found to amount to torture.

⁹ The International Violence Against Women Survey (IVAWS) project has been developed in response to the need for improved data collection instruments that would provide reliable statistical data on the prevalence of various forms of violence against women and their interaction with the criminal justice system. The purpose of the IVAWS is to promote and implement research on violence against women in countries around the world, in particular developing countries and countries in transition. The survey may be considered a tool for developing and strengthening democracy by increasing public participation in the process of formulating criminal justice policies. See Johnson, H., Ollus, N. & Nevala, S. (2008) "Violence Against Women: An International Perspective". New York: Springer.

Women.¹⁰ In February 2008 the Secretary-General launched a campaign to End Violence Against Women, which will run until 2015.

34. The General Assembly mandated, in 2003, the Secretary-General to prepare an in-depth study on all forms of violence against women.¹¹ In his interim report the Secretary-General noted that “violence against women is being addressed with increasing specificity and focus on the continuum of such violence from the private to the public sphere across different forms of violence, as well as throughout the life cycle.”¹² As a follow-up to the study the General Assembly has in its resolution 61/143 called the entire United Nations system to discuss how it will address violence against women systematically.¹³

35. Pursuant to the aforementioned resolution, the Secretary-General prepared a report titled “Intensification of efforts to eliminate all forms of violence against women”.¹⁴ The report highlights the Secretary-General’s commitment to a stronger and more visible role for the United Nations in efforts to eliminate violence against women. The report concludes, inter alia, that there has been significant progress in elaborating and agreeing on international standards and norms. Also entities of the United Nations system have stepped up their efforts at addressing violence against women in accordance with their mandates and have developed, or are in the process of developing, a range of initiatives aimed at preventing and eliminating such violence.¹⁵ The Secretary-General notes, however, that States around the world are failing to meet the requirements of the international legal and policy framework, and calls them to take urgent and concrete measures to end violence against women.

36. In the resolution 52/86 of 12 December 1997, upon the recommendations of the Commission on Crime Prevention and Criminal Justice and the Economic and Social Council, the General Assembly adopted the *Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice*.¹⁶ They are model guidelines to be used by Governments and other entities in their efforts to address, within the criminal justice system, the various manifestations of violence against women. They are divided into eleven sections dealing with criminal law, criminal procedure, police, sentencing and corrections, victim support and assistance, health and social services, training, research and evaluation, crime prevention measures, international cooperation and follow-up activities. The General Assembly also urged Member States to review and evaluate their legislation and legal principles, procedures, policies and practices relating to criminal matters in accordance to the *Model Strategies*, in order to ensure that women are treated fairly by the criminal justice system.¹⁷ The Economic and

¹⁰ A/RES/54/134.

¹¹ See resolutions A/RES/58/185, and A/RES/60/136 and Secretary-General’s Reports A/60/211, A/61/122, A/61/122/Add.1, and A/61/122/Add.1/Corr.1.

¹² A/60/211.

¹³ A/RES/61/143, para. 17.

¹⁴ A/62/201.

¹⁵ For UNODC’s activities in addressing the violence against women, see the Secretary-General’s report “Crime prevention and criminal justice responses to violence against women and girls”, E/CN.15/2008/2, which is prepared in response to the Economic and Social Council resolution 2006/29 of 27 July 2006.

¹⁶ A/RES/52/86.

¹⁷ For the implementation of the various elements of the *Model Strategies*, a Compendium of promising practices has been developed by the International Centre for Criminal Law Reform and Criminal

Social Council has in a resolution from 2006¹⁸ urged countries to consider using the Model Strategies.

37. The Special Rapporteur on violence against women, its causes and consequences focuses in her report of 2006 to the Commission on Human Rights¹⁹ on the due diligence standard, as provided for in the Declaration on the Elimination of Violence against Women.²⁰ Article 4 (c) of the Declaration provides that States shall “Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.” The Special Rapporteur concluded that “The potential of the due diligence standard lies in a renewed interpretation of the obligations to prevent, protect, prosecute and provide compensation and map out the parameters of responsibility for State and non-State actors alike in responding to violence.”²¹

38. The Special Rapporteur, whose mandate has been established in 1994 and continuously renewed since then,²² has dealt with a number of specific issues such as violence against women in the family; violence against women in the community; trafficking in persons; violence against women perpetrated and/or condoned by the State; violence against women and culture; and policies that impact on violence against women. Her recent report focuses on the indicators of violence against women and of State response and it is presented at the 7th session of the Human Rights Council in March 2008.²³

3. Successful practices to prevent violence against women

39. Prevention of violence against women practices fall into three categories: (1) primary measures, which aim at stopping violence before it occurs; (2) secondary measures, which are immediate responses after violence has occurred, aiming at limiting its extent and consequences; and (3) tertiary measures, which consist of longer-term care and support for the direct or indirect victims of violence.

Justice Policy, produced in collaboration with the Centre for International Crime Prevention (CICP), the European Institute for Crime Prevention and Control Affiliated with the United Nations (HEUNI), and the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD). The Compendium provides practical means for policymakers, criminal justice officials and other professionals to learn from the experience of other jurisdictions, offering a number of examples of promising practices, programmes, policies and legislation for each one of the Strategies.

¹⁸ E/RES/2006/29.

¹⁹ E/CN.4/2006/61.

²⁰ A/RES/48/104.

²¹ The report was prepared on the basis of a questionnaire which all governments were requested to submit. The questionnaire was divided in three parts, addressing in turn programmes, policies or other measures instituted by governments in order to *prevent* violence against women, measures to prosecute and punish violence against women, and programmes, policies or other measures to protect and provide services to women who have been subjected to violence by private actors.

²² Commission on Human Rights, resolution 1994/45.

²³ A/HCR/7/6. The report has been prepared in response to a call in the Commission on Human Rights resolution 2004/46 on the elimination of violence against women, for the Special Rapporteur to recommend proposals for indicators of violence against women and on measures taken to eliminate it in the recognition that there is a need for an international consensus on the establishment of indicators.

40. There are a number of crime prevention instruments and tools, which propose activities in preventing violence against women. The United Nations *Guidelines for the Prevention of Crime*²⁴ outline the necessary elements for effective crime prevention in this regard. They also recognize that crime prevention strategies should, when appropriate, pay due regard to the differentiated needs of women and men (article 14). In relation to organized crime, the *Guidelines* point to the need to design crime prevention strategies, where appropriate, to protect socially marginalized groups, especially women and children, who are vulnerable to the action of organized criminal groups, including trafficking in persons and smuggling of migrants (article 27c). The *Guidelines* also set out relevant principles and methodologies, some of which are of particular relevance to violence against women. It is important to ensure that the most vulnerable groups are included in assessments or diagnostics of crime and victimization in order to properly address their needs in crime prevention policies.

41. In addition to guidelines and tools generally application to crime prevention, section 14 of the *Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice* suggest a number of specific crime prevention measures in relation to violence against women. These include public awareness and education measures, multidisciplinary and gender-sensitive approaches, outreach programmes for offenders and potential offenders as well as for women and victims, developing and disseminating information on the different forms of violence against women, supporting NGO initiatives in this field, and enhancing the respect for the rights of women and discouraging both discrimination and stereotyping of women. There are also recommendations in terms of training (section 12), which can help prevent violence against women.

42. Evidence shows that there are several risk factors that can be related to gender-based violence. These include illiteracy; economic inequalities; cultural norms and socio-customary practices; women's lack of access to safe and affordable homes and property disinheritance; lack or ineffectiveness of services and resources for women; lack or ineffectiveness of gender-based policies; social norms supportive of violence, gender inequality and male entitlement; weak community sanctions against violence; an ineffective justice system; poor urban infrastructure; and alcohol and drug abuse.²⁵ Therefore primary prevention of violence against women requires changing attitudes and challenging stereotypes in society and assisting communities to end the acceptance of gender-based violence. It also requires women to be empowered both politically and economically, so as to overcome their subordinate position in society.²⁶ In addition, physical environments should be altered to promote women's safety, and extensive alcohol and drug abuse prevention, treatment and rehabilitation programmes should be offered to those whose substance dependence increases their likelihood of violence.

²⁴ ECOSOC resolution 2002/13, Annex.

²⁵ UN-HABITAT and Huairou Commission: Global Assessment on Women's Safety. Preliminary Survey Results, draft working document, September 2007, p. 8.

²⁶ Secretary-General's study on violence against women, A/61/122/Add.1, para. 337.

(a) Public awareness campaigns and advocacy

43. Evidence suggests that consistent public awareness campaigns, sustained over a long period of time, are more likely to be effective. Successful campaigns have used different means or combinations of different methods, including theatre, vigils, demonstrations, printed materials, radio, television, and the Internet. Campaigns can be tailored to different audiences, with each having different messages and information, for example information about remedies and help available; information about the prevalence, impact and illegality of violence against women; myths about violence against women; and messages that men, women and society in general condemn such acts. It is important to note that before public awareness campaigns are launched, there must be an infrastructure of support services in place to respond appropriately to women who disclose violence as a result of these campaigns.²⁷

44. Promising practices include also the creative use of popular media to reach wider audiences, and the use of new information and communications technologies to disseminate information widely and effectively. Also training and sensitization of journalists and other media personnel on issues related to gender equality who report on violence against women has been found as a promising practice as it can enhance the quality of reporting and contribute to increased awareness and understanding of the causes and consequences of violence against women in the general public.²⁸

(b) Community-based crime prevention and community mobilization

45. Active participation of communities and other segments of civil society is an essential part of effective crime prevention. Communities play an important role in identifying crime prevention priorities, in implementation and evaluation, and in helping to identify a sustainable resource base.²⁹ Community-based prevention strategies include parenting skills programmes, family support programmes, local theatre, mock trials, the development of inter-agency strategies and policies, workplace campaigns, and workshops.³⁰ Good practice in community mobilization involves a participatory process and the engagement of all levels of society, including local government representatives, community leaders, NGOs and women's groups.³¹

46. Particularly at the local government level the needs and differential experiences of women and girls (and men and boys), should be taken into account at all stages. Different needs should be integrated into a concerted gendered approach. There is evidence that effective strategies have the following characteristics: they involve cities and local government; are community-based, adapted to local needs, conditions, and resources; are based on partnerships between local elected leaders,

²⁷ Strategies to eliminate violence against women: A resource manual. Published by United Nations Office for Drug Control and Crime Prevention, International Centre for Criminal Law Reform and Criminal Justice Policy, European Institute for Crime Prevention and Control, affiliated with the United Nations, and Latin American Institute for the Prevention of Crime and the Treatment of Offenders, 2000, p. 67-68.

²⁸ Secretary-General's study on violence against women, A/61/122/Add.1, paras. 349, 351.

²⁹ Guidelines for the Prevention of Crime, Article 16.

³⁰ Strategies to eliminate violence against women: A resource manual, p. 68.

³¹ Secretary-General's study on violence against women, A/61/122/Add.1, para. 344.

institutions and services, and community representatives; undertake good initial assessment of problems and strengths using a gender analysis; develop a planned strategy and identify good, well tested or effective programmes which seem appropriate; strategies and programmes are carefully implemented, monitored and evaluated to provide feedback and help modify the strategy to meet changing local needs.³²

(c) Youth programmes

47. Given that children and young people who have experienced domestic violence are at risk of repeating the violence in their own families when they grow up, it is of utmost importance to develop family life and other education programmes for them. Successful programmes have included elements like communicating skills, assertiveness, cooperative conflict resolution, dealing with emotions and violence, respect and responsibility for self and others, knowledge of human rights, women's rights, power imbalance, and the causes and effects of violence. In parts of the world and in areas where large proportions of youth are not in school, alternative approaches must be developed, including recreational programmes, peer groups and adult role models, such as sport or popular media celebrities.³³

(d) Involvement of men

48. Men must play a role in the struggle to transform gender relations and to eliminate violence against women. Raising men's awareness to this issue is essential in involving men in the solution. Strategies to engage men in the prevention of violence against women have included work to raise awareness of the issue with organized groups, such as the military, trade unions, sports teams and the police. Also campaigns that utilize positive male models to oppose violence against women have been showing encouraging results.³⁴ Especially in relation to intimate partner violence, male rehabilitation programmes (often combined with rehabilitation from substance use) and violent offender programmes have shown some success in preventing re-offending.

(e) Situational crime prevention and promotion of public safety

49. Situational prevention focuses on the assessment of situations in which specific types of crime tend to occur, with a view to addressing problems or altering the immediate environment to prevent the crime. Assessment must include both the immediate and broader environments. Situational crime prevention reduces the opportunities for motivated offenders to commit crime, changes offenders' ideas about whether they can get away with a particular crime, and makes it seem harder, riskier, and less rewarding to commit crime.

50. It is good practice to make the physical environment safer for women. Community safety audits have been used to identify dangerous locations, discuss

³² See: M. Shaw - C. Andrew: "Engendering Crime Prevention: International Developments and the Canadian Experience", *Canadian Journal of Criminology and Criminal Justice*, April 2005, Vol. 7 (2).

³³ Strategies to eliminate violence against women: A resource manual, p. 68.

³⁴ Secretary-General's study on violence against women, A/61/122/Add.1, para. 346.

women's fears and obtain direct input from women for improving their safety. Prevention of violence against women should be an explicit element in urban and rural planning and in the design of buildings and residential dwellings. Part of the prevention work is also the improvement of the safety of public transport and routes travelled by women, such as to schools and educational institutions or to wells, fields and factories.³⁵

(f) Community policing

51. Community policing or neighbourhood policing is a policing strategy and philosophy based on the notion that community interaction and support can help control crime, with the assistance of community members. Community policing models include area-based policing; multi-agency partnership; community-based crime prevention; area-based foot patrols; and community involvement and consultation.³⁶

52. Successful police responses to violence against women requires going beyond the formation of special units and task forces. As vital as these units are to current protection efforts, they do not meet the daily demands for police patrol response to violence against women. A police agency that embraces community policing and provides its officers the related education and organizational support can balance the more conventional reactive responses to violence against women with proactive efforts that encompass early intervention, prevention, and treatment. Community policing creates an atmosphere in the police department that supports collaborative problem solving and fosters a higher level of community trust.

4. Criminal justice responses to violence against women, including against women migrant workers

(a) State responsibility

53. States' obligation to respect, protect, fulfil and promote human rights with regard to violence against women encompasses criminal justice responses including the responsibility to prevent, investigate and prosecute all forms of such violence, and to hold perpetrators accountable. The use of the due diligence standard underlines the State's duty to protect women effectively from such violence. In the General Recommendation No. 19 of the Committee on the Elimination of Discrimination against Women articulates that "States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation." When the violence is committed by state actors, such as police officers, soldiers or prison officers, it may constitute torture.³⁷

(b) Legal and policy framework

54. In section 6 of the *Model Strategies and Practical measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice*³⁸

³⁵ Secretary-General's study on violence against women, A/61/122/Add.1, para. 352.

³⁶ L. R. Jensen: Perspectives on Crime Prevention and Quality Management, in E. Marks- A. Meyer-R. Linssen (eds.): Quality in Crime Prevention, 2005, p. 117.

³⁷ Report of the Committee against Torture, A/51/44.

³⁸ General Assembly resolution 52/86, annex.

Member States are urged to periodically review, evaluate and revise their laws, codes and procedures, especially their criminal laws, to ensure their value and effectiveness in eliminating violence against women and to remove provisions that allow for or condone violence against women. States also have obligation to ensure that all acts of violence against women are prohibited. The elimination of violence against women should be supported and facilitated by strong institutional mechanisms and financing, through national action plans, including those supported by international cooperation and, where appropriate, national development plans.³⁹ Also the ECOSOC resolution 2006/29 strongly encourages Member States to promote an active and visible policy for integrating a gender perspective into the development and implementation of policies and programmes in the field of crime prevention and criminal justice in order to assist with the elimination of violence against women and girls. Especially girl children's vulnerability to sexual abuse and forced prostitution should be taken into account when designing anti-violence policies and programmes.⁴⁰

55. In relation to violence against migrant women, the General Assembly has adopted a number of resolutions in recent years. The most recent Assembly resolution of 31 January 2008⁴¹ calls upon States to put in place penal and criminal sanctions to punish perpetrators and intermediaries of violence against women migrant workers, and redress and justice mechanisms that victims can access effectively. It encourages States to formulate and implement training programmes for law enforcement authorities, immigration officers and border officials, prosecutors and service providers with a view of sensitizing them and imparting to them the necessary skills and knowledge to ensure the delivery of appropriate, professional and gender-sensitive interventions. States are also urged to adopt policies and legal and other measures that reduce the vulnerability of migrant women to exploitation, ill treatment and trafficking.⁴²

(c) Investigation and prosecution

56. Many jurisdictions assign special police units or teams to respond effectively to cases of gender-based violence. Special units receive training in all aspects of gender-based violence and sensitive handling of these cases, and aim to provide safe environment for women who report violence. Sometimes women officers are trained to work specifically in the area of domestic violence and crisis intervention. Victim's first contact with the police should be handled as a priority matter, and investigations should use techniques that do not degrade women subjected to violence and minimize intrusion, while maintaining standards for the collection of the best evidence.⁴³ Important is also to note that the primary responsibility for initiating prosecutions should not rest with the woman subjected to violence, but lies with the prosecution authorities.⁴⁴ Measures taken by the States in this regard

³⁹ General Assembly resolution 61/143.

⁴⁰ See the World Report on Violence against Children, prepared by Paulo Sérgio Pinheiro, the Independent Expert for the United Nations Secretary-General's Study on Violence against Children.

⁴¹ General Assembly resolution A/RES/62/132.

⁴² General Assembly resolution A/RES/60/139.

⁴³ General Assembly resolution 52/86: A/RES/635, para. 8 (b).

⁴⁴ *Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice*, section 7.

should tackle the fact that majority of reported cases of violence against women are not prosecuted. Good practice also includes timely arrests and vigorous prosecution policies. The forthcoming Handbook on Effective Police Responses to Violence against Women, published by the United Nations Office on Drugs and Crime, will provide guidance in matters relating to police practices in violence against women cases.

(d) Punishment of perpetrators of violence against women

57. Standards for criminal proceedings, including rules of evidence and procedure, should be conducted in a gender-sensitive manner to ensure that women are not re-victimized. This includes the development and application of rules of evidence and procedure to ensure that they are not too onerous or based on harmful stereotypes that would inhibit women from testifying. Making criminal proceedings more gender-sensitive may also require simplification of legal procedures; ensuring victim confidentiality through in camera proceedings where appropriate; victim support; protection measures; and trained personnel.⁴⁵ There is evidence that the adoption of specialized laws and procedures on violence against women can improve efficiency, minimize the burden on victims and improve case outcomes when prosecutors, judges and other court officers have received relevant training. Also special courts and prosecutors specialized in violence against women cases have been found effective. As to appropriate sentencing in cases concerning violence against women, it can be achieved through the introduction of more appropriate sentences, such as rehabilitation programmes for violent men, and monitoring of sentencing practices. Section 9 of the *Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice* also provides guidance in relation to sentencing and corrections in relation to perpetrators of violence against women.

(e) Remedies for victims of violence against women

58. In accordance with responsibility for prosecution and punishment, States have to ensure that their legal or administrative systems contain measures that provide just and effective remedies for women subjected to violence. Generally the right to a remedy includes access to justice; reparation for harm suffered; restitution; compensation; satisfaction; rehabilitation; and guarantees of non-repetition and prevention.⁴⁶ Criminal measures should be complemented by civil law measures, such as civil protection orders and victim compensation funds that cover cases of violence against women. Also adoption of anti-discrimination laws and laws that identify violence against women as a violation of victim's civil rights are good practice in that they convey the message that acts of gender-based violence are not acceptable.

⁴⁵ Secretary-General's study on violence against women, A/61/122/Add.1, para. 268.

⁴⁶ See the General Recommendation No. 19 of the Committee on the Elimination of Discrimination against Women and the Secretary-General's study on violence against women, A/61/122/Add.1, para. 269.

5. Effective strategies and practices to support victims of violence

59. As a result of acts of violence targeted to them, women suffer from physical, emotional and psychological harm. They also have to face the economic and social consequences that affect their lives, relationships, productivity and achievement in education and employment. Limited availability of services, stigma and fear can, however, prevent women who have been subjected to violence from seeking assistance and redress. This has been confirmed by a study published by the WHO in 2005: on the basis of data collected from 24,000 women in 10 countries, between 55% and 95% of women who had been physically abused by their partners had never contacted NGOs, shelters or the police for help.⁴⁷

60. *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, adopted by the General Assembly on 29 November 1985,⁴⁸ outlines the measures that States should take to secure justice and assistance for victims of such acts. It states, inter alia, that victims should be treated with compassion and respect for their dignity, and they should be informed of their rights and provided with proper assistance throughout the legal process. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Also section 10 of the *Model Strategies and Practical measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice*⁴⁹ highlights the importance of making available to victims of violence information on rights and remedies and on how to obtain them, in addition to information about participating in criminal proceedings.

61. Good practice involves safeguarding the rights of victims and creating a support system that respects the privacy, dignity and autonomy of all victims and is conducive to reporting. In addition to timely access to health-care services and shelters, victims of violence need a range of legal services, which provide them with adequate knowledge on legal issues related to violence against women. One good example of good practice in victim support is the One-Stop Centres established by the United Nations Office on Drugs and Crime in South Africa. They provide a range of services, including legal services, counselling, medical attention, support and overnight shelter to the survivors of violence and rehabilitation services, including counselling and support groups for male perpetrators as well as potential perpetrators in order to break the cycle of violence.

62. Even though legal services to victims of violence against women are often provided by civil society organizations, good practice requires States to support such projects and programmes, particularly through funding. Various forms of providing assistance have included, inter alia, establishment of hotlines or helplines, setting up of self-help groups and counselling services, establishment of legal aid centres, community legal services or networks of pro bono lawyers and provision of home visits.

63. In providing services and assistance to victims, attention should be given to those who have special needs. One such group is child victims of violence and

⁴⁷ García-Moreno et al. 2005. WHO Multi-country Study on Women's Health and Domestic Violence Against Women.

⁴⁸ General Assembly resolution 40/34, annex.

⁴⁹ General Assembly resolution 52/86, annex.

children who have witnessed violence. They might be traumatized by their participation in the criminal justice system, if they are called as witnesses in criminal proceedings. The *United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime*⁵⁰ recognize this particular vulnerability and set forth good practice based on the consensus of contemporary knowledge and relevant international and regional norms, standards and principles. The Guidelines were drafted in accordance with four cross-cutting principles: dignity, non-discrimination, best interest of the child (including protection and harmonious development) and participation. While recognizing the right of the defendant to a just and fair trial, the guidelines emphasize ten fundamental rights and principles regarding the participation of children in the judicial process: the right to be treated with dignity and compassion; the right to be protected from discrimination; the right to be informed; the right to be heard and to express views and concerns; the right to effective assistance; the right to privacy; the right to be protected from hardship during the justice process; the right to safety; the right to reparation; and the right to special preventive measures.

64. Another group calling for special consideration in providing assistance are women migrant workers. General Assembly resolution 62/132 urges the States to provide women migrant workers who are victims of violence with the full range of immediate assistance and protection, such as access to counselling, legal and consular assistance and temporary shelter, as well as mechanisms to allow the views and concerns of victims to be presented and considered at appropriate stages of proceedings. Access to meaningful and gender-sensitive information and education should also be promoted.

II. International and regional instruments dealing with violence against women

International instruments

Rome Statute of the International Criminal Court of 17 July 1998⁵¹ (entered into force on 1 July 2002):

General Assembly resolutions

Universal Declaration of Human Rights⁵² of 10 December 1948;

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others⁵³ of 2 December 1949 (entered into force on 25 July 1951);

Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (entered into force 21 October 1950);⁵⁴

⁵⁰ ECOSOC resolution 2005/20.

⁵¹ United Nations, *Treaty Series*, vol. 2187, No. 38544.

⁵² General Assembly resolution 217 A (III).

⁵³ United Nations, *Treaty Series*, vol. 96, No. 1342.

⁵⁴ Adopted by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August 1949.

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages⁵⁵ of 7 November 1962 (entered into force 9 December 1964);

Declaration on the Protection of Women and Children in Emergency and Armed Conflict⁵⁶ of 14 December 1974;

International Covenant on Civil and Political Rights⁵⁷ of 16 December 1966 (entered into force on 23 March 1976);

International Covenant on Economic, Social and Cultural Rights⁵⁸ of 16 December 1966 (entered into force on 3 January 1976);

Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977 (entered into force 7 December 1978);⁵⁹

Convention on the Elimination of All Forms of Discrimination against Women⁶⁰ of 18 December 1979 (entered into force on 3 September 1981);

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power⁶¹ of 29 November 1985;

Convention on the Rights of the Child⁶² of 20 November 1989 (entered into force on 2 September 1990);

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families⁶³ of 18 December 1990 (entered into force on 1 July 2003);

Declaration on the Elimination of Violence against Women⁶⁴ of 20 December 1993;

Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice⁶⁵ of 12 December 1997;

Optional Protocol to the Convention on the Rights of the Child on the sale of Children, child prostitution and child pornography⁶⁶ of 25 May 2000 (entered into force on 18 January 2002);

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict⁶⁷ of 25 May 2000 (entered into force on 12 February 2002);

⁵⁵ General Assembly resolution 1763 A (XVII).

⁵⁶ General Assembly resolution 3318 (XXIX).

⁵⁷ General Assembly resolution 2200 A (XXI), annex.

⁵⁸ Ibid.

⁵⁹ Adopted by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts.

⁶⁰ United Nations, *Treaty Series*, vol. 1249, No. 20378.

⁶¹ General Assembly resolution 40/34.

⁶² United Nations, *Treaty Series*, vol. 1577, No. 27531.

⁶³ General Assembly resolution 45/158.

⁶⁴ General Assembly resolution 48/104.

⁶⁵ General Assembly resolution 52/86, annex.

⁶⁶ United Nations, *Treaty Series*, vol. 2171, No. 27531.

⁶⁷ Ibid.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention on Transnational Organized Crime⁶⁸ of 15 November 2000 (entered into force on 25 December 2003);

Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention on Transnational Organized Crime⁶⁹ of 15 November 2000 (entered into force on 25 December 2003);

Economic and Social Council resolutions

Elimination of violence against women⁷⁰ of 23 July 1996;

The United Nations Guidelines for the Prevention of Crime⁷¹ of 24 July 2002;

Promoting effective measures to deal with the issues of missing children and sexual abuse or exploitation of children⁷² of 24 July 2002;

The United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime⁷³ of 22 July 2005;

Crime prevention and criminal justice responses to violence against women and girls⁷⁴ of 27 July 2006;

Office of the United Nations High Commissioner for Human Rights

Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography; adopted by Commission on Human Rights resolution 1992/74 of 5 March 1992;⁷⁵

Draft programme of action on the traffic in persons and the exploitation of the prostitution of others approved by the Commission on Human Rights at its fifty-second session;⁷⁶

International Labour Organization

Convention concerning Forced or Compulsory Labour, 1930 (Convention No. 29);⁷⁷

Convention concerning the Abolition of Forced Labour, 1957 (Convention No. 105);⁷⁸

⁶⁸ General Assembly resolution 55/25, annex II.

⁶⁹ General Assembly resolution 55/25, annex II.

⁷⁰ Economic and Social Council resolution 1996/12.

⁷¹ Economic and Social Council resolution 2002/13, annex.

⁷² Economic and Social Council resolution 2002/14.

⁷³ Economic and Social Council resolution 2005/20, annex.

⁷⁴ Economic and Social Council resolution 2006/29.

⁷⁵ *Official Records of the Economic and Social Council, 1992, Supplement No. 2 (E/1992/22)*, chap. II, sect. A.

⁷⁶ See E/CN.4/Sub.2/1995/28/Add.1.

⁷⁷ United Nations, *Treaty Series*, vol. 39, No. 612.

⁷⁸ United Nations, *Treaty Series*, vol. 320, No. 4648.

Convention concerning Minimum Age for Admission to Employment, 1973 (Convention No. 138);⁷⁹

Convention concerning Migrant Workers, 1975 (Convention No. 143);⁸⁰

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Convention No. 182).⁸¹

Regional instruments

Africa

African Charter on Human and Peoples' Rights⁸² (entered into force on 21 October 1986) (in particular, articles 4 and 5);

African Charter on the Rights and Welfare of the Child⁸³ (entered into force on 29 November 1999) (in particular, articles 15 and 16);

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (in particular, articles 12 and 13 on the prohibition, combat and punishment of all forms of exploitation of children, in particular of the girl-child, including sexual harassment in schools and other educational institutions), adopted at Maputo on 11 July 2003 by the second ordinary session of the Assembly of Heads of State and Government of the African Union.

Americas

Organization of American States

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) (entered into force on 5 March 1995);

Inter-American Convention on International Traffic in Minors (entered into force on 15 August 1997);

Combating the commercial sexual exploitation and smuggling of and trafficking in children in the hemisphere, resolution AG/RES.2050 (XXXIV-O/04) adopted at the thirty-fourth regular session of the General Assembly of the Organization of American States, in Quito on 8 June 2004.

Asia

Regional Commitment and Action Plan of the East Asia and Pacific Region against Commercial Sexual Exploitation of Children, adopted in Bangkok for the second World Congress Against Commercial Sexual Exploitation of Children, held in Yokohama, Japan, in 2001.

⁷⁹ United Nations, *Treaty Series*, vol. 1015, No. 14862.

⁸⁰ United Nations, *Treaty Series*, vol. 1120, No. 17426.

⁸¹ United Nations, *Treaty Series*, vol. 2133, No. 37245.

⁸² United Nations, *Treaty Series*, vol. 1520, No. 26363.

⁸³ Organization of African Unity document CAB/LEG/24.9/49 (1990).

South Asian Association for Regional Cooperation

South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, done at Kathmandu on 5 January 2002;

SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, done at Kathmandu on 5 January 2002 (in particular, articles 4 and 5).

Association of Southeast Asian Nations

Resolution on the Association of Southeast Asian Nations (ASEAN) Plan of Action for Children, done at Manila on 2 December 1993;

ASEAN Agreement to Combat Commercial Sexual Exploitation of Children in Tourist Destinations, signed at Vientiane, 2004.

Europe*Council of Europe*

Convention for the Protection of Human Rights and Fundamental Freedoms,⁸⁴ signed at Rome on 4 November 1950 (entered into force on 3 September 1953);

European Social Charter (revised) of the Council of Europe,⁸⁵ done at Strasbourg, France, on 3 May 1996 (entered into force on 1 July 1999);

Convention on Cybercrime,⁸⁶ opened for signature in Budapest on 23 November 2001;

Convention on Action against Trafficking in Human Beings, done at Warsaw on 16 May 2005.⁸⁷

Council of the European Union

Council of the European Union framework decision 2004/68/JHA on combating the sexual exploitation of children and child pornography,⁸⁸ done at Brussels on 22 December 2003.

Recommendations of the Committee of Ministers of the Council of Europe

Recommendation R (2001) 16 of the Committee of Ministers to member States on the protection of children against sexual exploitation;

Recommendation No. R (2000) 11 of the Committee of Ministers to member States on action against trafficking in human beings for the purpose of sexual exploitation;

Recommendation No. R (91) 11 of the Committee of Ministers to member States concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults;

⁸⁴ United Nations, *Treaty Series*, vol. 213, No. 2889.

⁸⁵ United Nations, *Treaty Series*, vol. 2151, No. 37549.

⁸⁶ Council of Europe, *European Treaty Series*, No. 185.

⁸⁷ Council of Europe, *Treaty Series*, No. 197.

⁸⁸ *Official Journal of the European Union*, L 13, 20 January 2004.

Recommendation No. R (90) 2 of the Committee of Ministers to member States on social measures concerning violence within the family;

Recommendation No. R (85) 4 of the Committee of Ministers to member States on violence in the family.

Recommendations of the Parliamentary Assembly of the Council of Europe

Recommendation 1065 (1987) of the Parliamentary Assembly on the traffic in children and other forms of child exploitation;

Recommendation 1526 (2001) of the Parliamentary Assembly on a campaign against trafficking in children to put a stop to the east European route: the example of Moldova;

Recommendation 1561 (2002) of the Parliamentary Assembly on social measures for children of war in South-Eastern Europe.

Resolutions of the Parliamentary Assembly of the Council of Europe

Resolution 1099 (1996) of the Parliamentary Assembly on the sexual exploitation of children;

Resolution 1307 (2002) of the Parliamentary Assembly on sexual exploitation of children: zero tolerance.

The Hague Conference on Private International Law

Convention on the Civil Aspects of International Child Abduction,⁸⁹ concluded at The Hague on 25 October 1980;

Convention on Protection of Children and Cooperation in respect of Intercountry Adoption,⁹⁰ done at The Hague on 29 May 1993;

Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children,⁹¹ done at The Hague on 19 October 1996.

Europe and Central Asia

Commitment and Plan of Action for Europe and Central Asia, adopted at the Conference on the Protection of Children against Sexual Exploitation, held in Budapest on 20 and 21 November 2001.

⁸⁹ United Nations, *Treaty Series*, vol. 1343, No. 22514.

⁹⁰ United Nations, *Treaty Series*, vol. 1870, No. 31922.

⁹¹ United Nations, *Treaty Series*, vol. 2204, No. 39130.