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Expert Group on gender-related killing of women and girls

Bangkok, 11-13 November 2014

Items 4 and 5 of the provisional agenda*

Discussion on ways and means to more effectively prevent, investigate, prosecute and punish gender-related killing of women and girls**Conclusions and recommendations of the expert group****Gender-related killing of women and girls: promising practices, challenges and practical recommendations****Background paper prepared by the Secretariat****I. Introduction**

1. With the adoption of resolution 68/191, entitled “Taking action against gender-related killing of women and girls”, the General Assembly expressed its deep concern for the alarming proportion of different manifestations of gender-related killing of women and girls¹ and for their high level of impunity and urged Member States to exercise due diligence to address acts of violence against women. Recognizing the key role of the criminal justice system in preventing and responding to gender-related killing of women, the Assembly also invited Member States to strengthen their criminal justice response.²

2. Furthermore, it requested the Secretary-General to convene an open-ended intergovernmental expert group meeting to discuss ways and means to more effectively prevent, investigate, prosecute and punish gender-related killing of women, with a view to making practical recommendations drawing on current best practices. Pursuant to the Assembly mandate and thanks to the support provided by

* UNODC/CCPCJ/EG.8/2014/1.

¹ Hereinafter, the term “women” includes girls under the age of 18.

² General Assembly resolution 68/191.



the Government of Thailand the meeting of the open-ended intergovernmental expert group is to be held in Bangkok from 11 to 13 November 2014.

3. With a view to facilitating the discussion and the exchange of knowledge at the above meeting, the United Nations Office on Drugs and Crime (UNODC), in cooperation with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, prepared this document, which highlights some current and promising practices and includes draft practical recommendations for consideration by the expert group.

II. Framing the problem

A. What is gender-related killing of women?

4. Gender-related killing of women is generally understood to refer to the intentional murder of women because they are women, whether they occur in public or in private. The concept emerged in the 1970s in sociological research under different labels, including “femicide” or “feminicide”, and has been the subject of recent criminal law reforms, especially in Latin America. In her 2012 report, the Special Rapporteur on violence against women, its causes and consequences considered examples from different regions and stressed that the global prevalence of gender-related killing of women was reaching alarming proportions.³ She identified such killing as the extreme manifestation of violence against women,⁴ often representing the final event of an extended and ignored continuum of violence. Rooted in gender-based discrimination and the unequal power relations between men and women, gender-related killing is frequently exacerbated by other forms of discriminations based on race, caste, class, geographical location, religion or belief, education attainment, ability and sexuality and a general tolerance of violence against women.⁵

5. The Special Rapporteur distinguished active or direct forms of gender-related killing from passive or indirect forms. Direct forms include: killing as a result of intimate partner violence; sorcery/witchcraft-related killing; “honour”-related killing; armed conflict-related killing; dowry-related killing; gender identity- and sexual orientation-related killing; and ethnic- and indigenous identity-related killing. Indirect forms encompass: deaths due to poorly conducted or clandestine abortions; maternal mortality; deaths from harmful practices; deaths linked to human trafficking, drug dealing, organized crimes and gang-related activities; the

³ A/HRC/20/16.

⁴ The Declaration on the Elimination of Violence against Women (General Assembly resolution 48/104) defines violence against women as “any 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 private life”.

⁵ A/HCR/17/26, para. 40.

death of girls or women from simple neglect, through starvation or ill-treatment; and deliberate acts or omissions by the State.⁶

6. Conceptualizing gender-related killing of women has proven difficult. There is little consistency among lawmakers, service providers and researchers regarding its constitutive elements. Different forms of lethal violence vary depending on factors such as political and cultural contexts, circumstances or social dynamics. A key challenge is to determine the specific gender context and circumstances in which women are killed and to avoid treating women as vulnerable to homicide merely because they are women.

7. Victims of gender-related killing are not only the women directly affected. The term “victims” was defined by the General Assembly as the “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws [...] A person may be considered a victim [...] regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term ‘victim’ also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization”.⁷

B. Relevant international normative and political frameworks

8. Gender-related killing of women is both a form of violence against women and one of its consequences. As such, States’ obligations to address violence against women, and hence gender-related killing of women, arise from their duty under international human rights law to prevent human rights violations within their jurisdictions, protect individuals, punish the perpetrators of violations and provide redress to the victims.⁸ Accordingly, States must “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.”⁹

⁶ A/HRC/20/16, para. 16.

⁷ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34, annex.

⁸ A/HRC/20/16, para. 82. See also Inter-American Court of Human Rights (IACtHR), *Velásquez Rodríguez vs. Honduras*, Judgment of 29 July 1988, Series C. No. 4; European Court of Human Rights (ECtHR), *Opuz vs. Turkey*, Judgment, 9 June 2009, para. 128.

⁹ Declaration on the Elimination of Violence against Women, art. 4 (c). See also Committee on the Elimination of Discrimination against Women *Recommendation No. 19 (1992)*, para. 24 (t).

9. This due diligence standard was further developed by the 1995 Beijing Platform for Action,¹⁰ other international and regional instruments and declarations¹¹ and human rights mechanisms.¹² At a systemic level, it implies obligations to address the structural causes and consequences of violence against women. At the individual level, States must establish and use effective means to respond to each case.¹³ It also entails that traditions, customs or religious considerations cannot be invoked as a justification to avoid these obligations.¹⁴

10. The obligation to prevent and protect requires States to adopt comprehensive measures to address the root causes of and risk factors for violence against women and discrimination.¹⁵ It is not limited to the adoption of political and legal frameworks¹⁶ or to the establishment of formal judicial remedies. Law enforcement and the justice system must have sufficient capacity to operate effectively and eliminate impunity through effective criminal investigations that allow for adequate sanction and reparation of the victims.¹⁷ The obligation also entails establishing appropriate, immediate, timely, exhaustive, serious and impartial judicial response to acts of violence against women¹⁸ as well as measures to ensure adequate training of criminal justice personnel, coordination within the criminal justice system and cooperation with victim protection and support organizations.¹⁹ In some circumstances, this obligation extends to a “positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk

¹⁰ A/CONF.177/20/Rev.1, annex II, paras. 112-130.

¹¹ See, respectively, Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104; updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, General Assembly resolution 65/228, annex; Human Rights Council resolutions 7/24, 11/2, 14/12; the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belém do Pará Convention); the 2003 Protocol on the Rights of Women to the African Charter on Human and Peoples’ Rights (Maputo Protocol); the 2011 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention); and the 2004 Association of Southeast Asian Nations’ (ASEAN) Declaration on the Elimination of Violence Against Women.

¹² A/HRC/23/49, paras. 23-40.

¹³ *Ibid.*, para. 20.

¹⁴ See Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104, art. 4.

¹⁵ Report of the Special Rapporteur on violence against women, Radhika Coomaraswary, *Violence against women in the family*, E/CN.4/1999/68, 10 March 1999, para. 25.

¹⁶ The Committee on the Elimination of Discrimination against Women underlined that States’ obligations encompass preventing direct and indirect discrimination, i.e., laws, policies, programmes or practices that seem to be neutral but, in practice, have a discriminatory effect against women because of structural and pre-existing inequalities. *General Recommendation No. 28*, CEDAW/C/GC/28, para. 16.

¹⁷ IACtHR, *González and others vs. Mexico*, 2009, para. 252; Committee on the Elimination of Discrimination against Women Communication No. 5/2005, *Sahide Goeke vs. Austria*, CEDAW/C/39/D/5/2005 (6 August 2007) and Communication No. 20/2008, *Violeta Komova vs. Bulgaria*, CEDAW/C/49/D/20/2008 (27 September 2011).

¹⁸ Inter-American Commission on Human Rights, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser.L/V/II. Doc. 68, 20 January 2007, para. 296.

¹⁹ Committee on the Elimination of Discrimination against Women Communication No. 5/2005, para. 12.3 and Communication No. 20/2008, para. 9.16.

from the criminal acts of another individual.”²⁰ Preventive measures also include the obligation to address harmful gender stereotypes and wrongful gender stereotyping.²¹

11. The duty to investigate, prosecute and punish has two main purposes: to prevent repetition of harmful acts and to provide justice to the victims.²² International standards have been developed concerning criminal investigations and proceedings. In particular, judicial institutions should be independent and impartial. Investigations should be prompt, effective, exhaustive, and aimed at establishing the truth and at identifying, prosecuting and sanctioning the perpetrators.²³

12. The updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, adopted by the General Assembly in December 2010 to provide to Member States a set of specific recommendations related to the criminal justice system, underline that investigations should be carried out with a gender perspective, should consider the specific vulnerability and the victims’ needs and should use techniques that minimize intrusion into their lives while abiding by standards for the collection of evidence.²⁴ The updated Model Strategies also provide that the investigation and prosecution of acts such as gender-related killing of women should be initiated ex officio and without delay by competent authorities.²⁵ They also indicate that evidentiary rules should be non-discriminatory, should allow the admission of all relevant evidence and should preclude the admissibility of the defence of “honour” or “provocation”.²⁶ Furthermore they prescribe that evidence of prior acts of violence by the perpetrator should also be considered during court proceedings.²⁷ Finally, it is foreseen that the exercise of powers by police, prosecutors and other criminal justice officials should be in line with the rule of law and codes of conduct and that such officials should be held accountable for any infringement thereof through appropriate oversight and accountability mechanisms.

13. States’ obligations also encompass the duty to guarantee victims’ rights to an effective remedy,²⁸ including (a) equal and effective access to justice; (b) adequate,

²⁰ ECtHR, *Opuz vs. Turkey*, para. 128. See also Committee on the Elimination of Discrimination against Women Communication No. 20/2008, *Violeta Komova vs. Bulgaria*, CEDAW/C/49/D/20/2008 (27 September 2011) and Communication No. 5/2005, *Sahide Goeke vs. Austria*, CEDAW/C/39/D/5/2005 (6 August 2007), para. 12.

²¹ Convention on the Elimination of All Forms of Discrimination against Women, Art. 2(f) and 5(c). Committee on the Elimination of Discrimination against Women *General Recommendation No. 28*, para. 16. See also OHCHR, *Gender Stereotyping as a Human Rights Violation*, October 2013, www.ohchr.org/Documents/Issues/Women/WRGS/StudyGenderStereotyping.doc.

²² A/HRC/23/49, para. 73.

²³ Committee against Torture, *Final observations: Spain*, United Nations Doc. CAT/C/ESP/CO/5 (9 December 2009), para. 24; Id, *Final observations: Albania*, United Nations Doc. CAT/C/ALB/CO/2 (26 June 2012), para. 25; Committee on the Rights of the Child, *General observation No. 12*, United Nations Doc. CRC/C/GC/12 (20 July 2009) and *General observation No. 13*, United Nations Doc. CRC/C/GC/13 (18 April 2011).

²⁴ General Assembly resolution 65/228, annex, para. 16 (e).

²⁵ Ibid., para. 15 (b).

²⁶ Ibid., para. 15 (d).

²⁷ Ibid., para. 15 (g).

²⁸ Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104, art. 4 (d) and (g); Belém do Pará Convention, art. 7; Istanbul Convention, art. 17 and 18; and Maputo Protocol, art. 4 and 10.

effective and prompt reparations for harm suffered; and (c) access to relevant information.²⁹ In criminal proceedings, victims should be heard³⁰ or enabled to testify through measures that protect their privacy, identity and dignity while ensuring their safety and avoiding secondary victimization.³¹ Remedies should also be “transformative” and address structural subordination and systemic marginalization.³² Special attention is to be paid to children victims and witnesses of gender-related killing of women.³³ Victims should be enabled to speak to a female officer and should be informed of the offender’s release from detention or imprisonment.³⁴

14. The above-mentioned obligations should be applied without discrimination based on any ground and should take into account the particular vulnerability to violence of specific groups of women, including those belonging to minority groups, indigenous women, refugee and internally displaced women, migrant women, women living in rural or remote communities, women in institutions or in detention, women with disabilities, elderly women, widows, women in situations of armed conflict, women who are otherwise discriminated against, including on the basis of HIV status, and women victims of commercial sexual exploitation.³⁵

15. The specific issue of gender-related killing of women has recently been addressed in the framework of various international forums,³⁶ including the General Assembly, the Human Rights Council and the Commission on the Status of Women, underlining the alarming prevalence of the phenomenon and recalling States’ obligations. The issue has also been addressed at the regional level. In Latin America, for example, in 2008, the monitoring mechanism of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women issued a specific declaration on “femicide”.³⁷

III. Promising practices and challenges concerning gender-related killing of women

16. Three main approaches can be distinguished with regard to the use of criminal law to prevent, investigate, prosecute and punish gender-related killing of women.

²⁹ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34, annex; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147, paras. 10 and 11; General Assembly resolution 65/228, annex, para. 18 (a); and Istanbul Convention, art. 19.

³⁰ General Assembly resolution 40/34, annex, para. 6 (b) and Convention on the Rights of the Child, art. 12.

³¹ General Assembly resolution 65/228, annex, para. 15 (c).

³² A/HRC/14/22, paras. 12 and 24.

³³ Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Economic and Social Council resolution 2005/20, annex.

³⁴ General Assembly resolution 65/228, annex, paras. 16 (l) and 17 (c).

³⁵ *Ibid.*, Preamble.

³⁶ General Assembly resolution 68/191; Human Rights Council resolution 23/25, and the *Agreed conclusions on the elimination and prevention of all forms of violence against women and girls* of the Commission on the Status of Women, E/2013/27-E/CN.6/2013/11.

³⁷ *Declaration on Femicide*, OEA/Ser.L/II.7.10, 15 August 2008.

Some countries, mainly in Latin America, have established the crime of “femicide” or “feminicide” in their criminal codes, although the elements of the crime vary widely.³⁸ The second approach builds on the inclusion of gender-related aggravating factors for homicide offences. They include objective circumstances (i.e. the relationship between the victim and the perpetrator or the pregnancy of the victim) or subjective elements (i.e. hatred, prejudice or “honour”).³⁹ The third approach, taken by many countries, is to use existing gender-neutral criminal law provisions on homicide, murder or manslaughter, based on the general principle that men and women are equal before the law.⁴⁰

17. Insufficient access to justice is a major obstacle for the effective prevention, investigation, prosecution and punishment of gender-related killing of women. It may be due to a multitude of factors such as (a) inadequate or discriminatory laws; (b) a lack of gender-sensitive procedures to deal with violence against women;⁴¹ (c) persistence of discriminatory gender stereotypes and attitudes of police and other criminal justice officials (i.e. victim-blaming attitudes or under-enforcement in minority communities);⁴² (d) insufficient funding for the implementation of legal or administrative provisions concerning victims’ rights; (e) stigma and fear of reprisals; (f) victims’ lack of information on their rights and procedures; or (g) limited geographic availability of judicial services. Social and economic factors, such as dependency on the income of her partner, may also prevent a woman from seeking justice.

18. Criminal justice institutions do not always have the capacity to prevent and address gender-related killing of women in a gender-sensitive manner. The challenges include gender stereotypes and discrimination, insufficient specialized expertise and training, and a lack of financial and human resources. Furthermore, it should be highlighted that the number of women employed within the justice system is frequently low, especially at the senior level.

A. Data collection and analysis

19. At the global level, several studies have been conducted that provide useful data on gender-related killing of women, particularly within the context of intimate partner violence. The 2011 *UNODC Global Studies on Homicide* highlighted that intimate partner/family-related violence was a major cause of female homicides and had a disproportionate impact on women.⁴³ In 2012, almost half of all female

³⁸ UNODC/CCPCJ/EG.8/2014/CRP.1, para. 8; Secretary-General’s campaign UNiTE, *La regulación del delito de femicidio/feminicidio en América Latina y el Caribe*, July 2012.

³⁹ UNODC/CCPCJ/EG.8/2014/CRP.1, paras. 6-7.

⁴⁰ *Ibid.*, paras. 5 and 10.

⁴¹ For example, regarding the admissibility of circumstantial evidence, statute of limitation or the concept of self-defence.

⁴² European Union (EU), *Feasibility study to assess the possibilities, opportunities and needs to standardize national legislation on violence against women, violence against children and sexual orientation violence*, Brussels 2010, pp. 64 and 204, p. 65; Cusack, *Eliminating judicial stereotyping*, 2014, available at www.ohchr.org/EN/Issues/Women/WRGS/Pages/Documentation.aspx.

⁴³ UNODC, *Global Study on Homicide*, 2011, p. 57-58. In 2013, the World Health Organization (WHO) confirmed these figures in WHO, London School of Hygiene and Tropical Medicine and South African Medical Research Council, *Global and regional estimates of violence against*

victims of murder (47 per cent, or 43,600 women) were killed by their family members or intimate partners, compared to 6 per cent (20,000) of male homicide victims.⁴⁴

20. At the national level, statistical data provided to UNODC by Member States indicate that men outnumber women as victims of murder and other forms of crime, but that women are more likely to be victims of intimate partner homicide and are disproportionately affected by domestic and/or sexual violence.⁴⁵ The killing of women accused of sorcery/witchcraft is reported as a significant phenomenon in countries in Africa, Asia and the Pacific islands.⁴⁶ Dowry-related murders continue to be a widespread practice in some South Asian countries. For example, over 8,000 such cases have been reported in India every year during the period 2008-2012.⁴⁷ Prenatal sex selection, girl neglect and female infanticide remain a critical concern in some countries.⁴⁸ In Mexico and Central America, the growing phenomena of organized crime, human and drug trafficking and the proliferation of small arms have brought a considerable increase in the rates of killing of women,⁴⁹ although it is not clear whether the main drivers of these killings are related to gender.

21. Data and information on gender-related killings of women is available predominantly from administrative records of law enforcement and judicial sources. Some countries have also used population-based sources of information like victimization, demographic or health surveys to estimate women's exposure to partner and non-partner violence.⁵⁰

22. It is important here to stress that "collecting sound data on the magnitude and nature of the problem has served in many countries as a stimulus to acknowledge and name the problem and initiate discussions on policies and strategies to address it".⁵¹ In this regard, it should be recalled that existing United Nations initiatives can support countries in gathering data and information on gender-related killing of women. To improve the comparability of criminal justice data on intentional homicide and other offences, an international crime classification for statistical purposes is being developed under the auspices of the Statistical Commission and the Commission on Crime Prevention and Criminal Justice, and is expected to be endorsed in 2015.⁵² The indicators for the documentation of the prevalence of violence against women, developed by the Statistical Commission, and the

women: prevalence and health effects of intimate partner violence and non-partner sexual violence, Geneva, 2013, p. 26.

⁴⁴ UNODC, *Global Study on Homicide*, 2013, p. 49-56.

⁴⁵ UNODC/CCPCJ/EG.8/2014/CRP.1, paras. 41-55.

⁴⁶ Marcia Kran, OHCHR, in Academic Council on the United Nations System, *Femicide: A Global Issue That Demands Action, Vol. II*, 2014, p. 41.

⁴⁷ National Crime Records Bureau, *Crime in India 2012*, p. 81, available at <http://ncrb.nic.in/CD-CII2012/Compendium2012.pdf>.

⁴⁸ United Nations Population Fund (UNFPA) Asia and the Pacific Regional Office, *Sex Imbalances at Birth: Current trends, consequences and policy implications*, August 2012.

⁴⁹ OHCHR, *Gender-related killings of women and girls*, August 2013, www2.ohchr.org/english/issues/women/docs/Gender_motivated_killings.pdf.

⁵⁰ See, for example, European Union Agency for Fundamental Rights, *Violence against women: an EU-wide survey*, available at <http://fra.europa.eu/en/publication/2014/vaw-survey-main-results>.

⁵¹ WHO study cited in note 43, p. 34.

⁵² E/CN.15/2014/10.

guidelines developed by the Statistics Division of the Department of Economic and Social Affairs help countries gather data on the forms of violence that can precede gender-related killing of women, but do not relate to gender-related killing of women as such.⁵³

23. The different manifestations, causes and consequences of gender-related killing of women are still not well understood. “Reliable and globally comparable data on its natures and prevalence remain scarce”⁵⁴ and victimization surveys and other population-based sources, by their very nature, do not lend themselves to the collection of information on homicides.⁵⁵

24. Administrative records of homicides often do not capture information on gender-related killing. In many cases, they are not disaggregated by sex and do not include data on the motivation, context or circumstances of the crime, on the relationship between victim and perpetrator, the modus operandi or the connection between killing of women with their prior experiences of violence.⁵⁶ Misclassifications of the murders of women under categories such as “crime of passion”, “accidental death” or “suicide” lead to underreporting. Furthermore, single data sources (e.g. law enforcement data) provide only limited information while some other data sources (e.g. medical surveillance data) remain underused to assess risk factors. Key challenges include the use of a variety of sources and different methodologies⁵⁷ and the effective coordination among responsible agencies.⁵⁸

25. These challenges are further complicated by discrepancies in the definition of the concept of gender-related killing of women, which lead to methodological divergence regarding the collection and analysis of data and prevent their comparability. Often, relevant data are limited to specific contexts such as intimate partner or domestic violence and restricted to the murder of a woman by a man (usually within a relationship framework), excluding other forms and contexts of victimization, including where women are perpetrators, the killing occurs outside an intimate relationship or in same-sex relationships.

26. Gaps in available data and research persist, especially in Asia and Africa and with regard to some forms of gender-related killing of women and their impact on specific groups. More research and data collection is needed to better understand and address “honour”- and dowry-related killing, ritualistic killing, killing during pregnancy or in the context of reproductive health and female infanticide, as well as to assess the specific vulnerabilities of elderly women, lesbians, transgender and transsexual women, migrant women or disabled women.

⁵³ Statistics Division, *Report on the Meeting of the Friends of the Chair of the United Nations Statistical Commission on Statistical Indicators on Violence against Women*, February 2010, ESA/STA/AC.193/L.3.

⁵⁴ Program for Appropriate Technology in Health et al., *Strengthening Understanding of Femicide: Using research to galvanize action and accountability*, 2009, p. 3.

⁵⁵ UNODC Manual on Victimization Surveys, 2010, p. 9.

⁵⁶ UNODC, *Global Study on Homicide*, 2013, pp. 99-108.

⁵⁷ *Guidelines for Producing Statistics on Violence against Women*, ST/ESA/STAT/SER.F/11, 2013.

⁵⁸ UNODC, *Global Study on Homicide*, 2013, p. 106.

B. Prevention

27. To effectively prevent and eliminate gender-related killing and related forms of violence against women, comprehensive approaches are required. Preventing violence can range from stopping violence from reoccurring to stopping it from happening in the first place, and effective interventions will vary accordingly. Promising prevention practices vary, but they include not only reforms to discriminatory laws and practices but also efforts to challenge social norms and stereotypes that support and condone male domination and control over women, and to strengthen women's economic and social autonomy.⁵⁹

28. Many countries have adopted integrated legal and policy frameworks (e.g. national plans of action and strategies) and reformed not only their criminal law and procedure but also other related areas of law (e.g. civil, family, asylum, migration or labour laws). Promising operational measures include community-based interventions and media campaigns,⁶⁰ as well as school-based curricula on respectful relationships and gender equality. Working with boys and men, before and after violence has occurred, is also an important aspect of prevention. For those who have already used violence, community- or prison-based perpetrator programmes are offered in some countries to enable boys and men to learn and practice alternatives to violence,⁶¹ although their evaluations have yielded mixed results.⁶²

29. Given that gender-related killing often represents the culmination of a continuum of violence against women, the criminalization of and timely responses to forms of violence that precede the killing can have a preventive impact. Relevant offences include domestic or intra-family violence, rape, forced marriage, trafficking in women and girls, stalking, acid attacks, female genital mutilation, sexual harassment and slavery.⁶³

30. Available estimates of gender-related killing of women suggest that current legislations, policies and programmes are not effectively addressing violence against women. Comprehensive and effective measures to respond to such violence would go a long way in preventing gender-related killing, especially since they often represent the culmination of a continuum of violence.

31. A key challenge is achieving coherent and comprehensive legislative and policy frameworks that explicitly address gender inequality as the basis of violence against women.⁶⁴ Too often, existing laws are limited to intimate partner or domestic violence, ignoring the discriminatory basis and marginalizing forms and circumstances of violence that do not fit under these categories (i.e. deaths provoked by the sexual orientation or the gender identity of the victim, by non-family members or during armed conflicts).⁶⁵ In addition, the different branches of law involved in the prevention and response to violence that could lead to gender-related

⁵⁹ A/HRC/17/23, 19 April 2011.

⁶⁰ UNODC/CCPCJ/EG.8/2014/CRP.1, paras. 92-93.

⁶¹ EU Feasibility study, pp. 64 and 204, cited in note 42.

⁶² See www.endvawnow.org/en/articles/229-perpetrators-of-violence-batterers.html.

⁶³ *Ibid.*, para. 11.

⁶⁴ EU Feasibility study, p. 124, cited in note 42.

⁶⁵ *Ibid.*, p. 115.

killing of women (criminal, civil, family and migration laws) are not always coherently coordinated and they deal with various forms of violence in a disconnected manner. Moreover, many countries still “see the violent experiences of women as disconnected events, taking place in the private sphere of relationship conflict and beyond the realm of policy makers.”⁶⁶ Finally, national strategies, plans or programmes often lack appropriate human resources, adequate funding or sustainability,⁶⁷ and are seldom subjected to effective monitoring and evaluation.⁶⁸

32. At the operational level, measures to prevent and respond to violence against women are often less comprehensive and coordinated than required. Since victims need services that go beyond immediate protection,⁶⁹ a key challenge is effective coordination of different public sectors, including justice, law enforcement, education, health and social services. Moreover, informal support systems may provide victims the necessary support before the criminal justice system is called to intervene, while, at the same time, preparing for this intervention.

33. In some countries, the expansion of police preventive initiatives represents a positive development. However, “some of the main failures in the adequate protection of women victims of violence emerge in the initial response by authorities to an emergency call, and the police are often the first authority that women call on.”⁷⁰ Moreover, the intervention of the police is often restricted to the specific context of violence (i.e. domestic violence), the relationship between the victim and the perpetrator, or procedural momentum (when a criminal proceeding has been initiated).⁷¹

34. Alternative dispute resolution mechanisms (such as mediation, conciliation, arbitration or community-based or traditional dispute resolution) have been used as preventive tools in family and criminal laws, in order to hasten conflict resolution, reduce court backlog or preserve social relationships for the disputants.⁷² However, many concerns have been raised regarding their effectiveness, the power imbalance between the perpetrator and the victim, the risk for women to be discriminated against and suffer retaliation, the lack of judicial safeguards and the inadequacy to meet victims’ needs.⁷³

35. The relationship between firearms and intimate partner violence (threats and murders) is another key challenge. Studies show that women are much more at risk

⁶⁶ WHO Study, p. 31, cited in note 43.

⁶⁷ A/HRC/23/49, para. 49.

⁶⁸ A/HRC/17/23, para. 62.

⁶⁹ For example, the availability of shelters should be associated with other policies that enable battered women and their children to live safe and autonomously (Desmond Ellis and Walter S. DeKeseredy, *Rethinking Estrangement, Interventions and Intimate Femicide, Violence against Women*, Vol. 3 No. 6, December 1997, p. 603).

⁷⁰ A/HRC/23/49, para. 50.

⁷¹ Council of Europe, *Protecting women against violence, Analytical study on the results of the third round of monitoring the implementation of Recommendation Rec (2002) 5 on the protection of women against violence in the Council of Europe member states*, 2010, pp. 17-18.

⁷² Gender Equality Commission of the Council of Europe, *Feasibility Study Equal Access to Justice*, GEC (2013) 1 abridged Rev, 28 May 2013, paras. 48-53.

⁷³ Due Diligence Project, *Due Diligence Framework: State Accountability Framework for Eliminating Violence against Women*, pp. 61-62.

of been murdered if there was a gun in their home.⁷⁴ In addition to restricting the possession and use of firearms,⁷⁵ export controls may be required to minimize the risk of violence against women.⁷⁶

36. News media play a fundamental role in “shaping society’s perception of crime as well as public opinion of offenders and victims.”⁷⁷ In many societies, news coverage is highly marked by harmful gender stereotypes and myths, sending “a clear message to consumers that [violence against women] is not a serious crime,”⁷⁸ while media could play an essential role in raising awareness regarding violence against women.

C. Investigation and prosecution

37. Several promising practices can be identified with regard to the criminal procedure. In many countries, violence in the family or against a partner is considered a public offence that does not require the complaint of the victim or private prosecution.⁷⁹ In others, prosecuting authorities are required to continue criminal proceedings despite the victim’s withdrawal of complaint in the cases of domestic violence.⁸⁰ In a third group of countries, the prosecutor retains a margin of discretion in deciding whether to pursue criminal proceeding of domestic violence.⁸¹ Some legal systems provide the police with special powers in cases of domestic violence, such as the permission to enter the home without a warrant, to temporarily ban the offender from the home or to arrest the suspect to protect the victims and/or to prevent future assault.⁸² In other instances, judges can also issue urgent court decisions *ex parte* on probable cause within a day.⁸³

38. Some countries have designated forms of violence against women as a priority for the police and prosecution,⁸⁴ and established special units within the police and prosecution or specialized courts, some of them focusing on gender-related killings of women.⁸⁵ Good practices also include the implementation of specialized institutional policies, guidelines and protocols,⁸⁶ and the provision of training for judicial operators.

⁷⁴ Small Arms Survey, *Small Arms Survey 2013: Everyday Dangers*, Chapter 2. Too Close to Home: Guns and Intimate Partner Violence, July 2013, www.smallarmssurvey.org/fileadmin/docs/A-Yearbook/2013/en/Small-Arms-Survey-2013-Chapter-2-EN.pdf.

⁷⁵ General Assembly resolution 65/228, annex, para. 14(c)(1).

⁷⁶ Arms Trade Treaty, article 7(4).

⁷⁷ Tara N. Richards et al., *Exploring News Coverage of Femicide: Does the News Add Insult to Injury?*, *Feminist Criminology* 2011, Vol. 6(3), p. 179.

⁷⁸ *Ibid.*

⁷⁹ EU Feasibility Study, p. 64, cited in note 42.

⁸⁰ ECtHR, *Opuz vs. Turkey*, para. 87.

⁸¹ EU Feasibility Study, p. 64, cited in note 42.

⁸² *Ibid.*

⁸³ *Ibid.*, p. 63.

⁸⁴ *Ibid.*, p. 64.

⁸⁵ *Ibid.* See also UNODC/CCPCJ/EG.8/2014/CRP.1, paras. 61-73.

⁸⁶ See also UNODC/CCPCJ/EG.8/2014/CRP.1, paras. 83-87; OHCHR/UN-Women, *Modelo de protocolo latinoamericano de investigación de las muertes de mujeres por razones de género (femicidio/feminicidio)*, 2014.

39. At the global level, specific recommendations on the role of the criminal justice system in responding to violence against women are contained in a series of UNODC tools and publications such as the *Handbook on Effective Police Responses to Violence against Women*,⁸⁷ the *Handbook on Effective Prosecution Responses to Violence Against Women* (forthcoming) and the recent publication *Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women*.⁸⁸ A number of quality standards for the provision of essential police and justice sector responses to violence against women are also currently being developed by UN-Women and UNFPA, together with UNODC and the United Nations Development Programme (UNDP).

40. At the regional level, in Latin America, OHCHR and UN-Women have developed a regional model protocol for the investigation of gender-related killing of women to provide criminal justice officials with practical tools to guide their investigation and judicial strategies.⁸⁹

41. In her report of 2012, the Special Rapporteur on violence against women, its causes and consequences emphasized that impunity for the killing of women has become a global concern.⁹⁰ Attrition and low conviction rates remain a real challenge for successful prosecutions. The main causes are commonly identified as: (a) insufficient attention given to previous complaints including inadequate risk assessment and management strategies; (b) procedures that place the responsibility for initiating investigations and prosecutions on the victim; (c) lack of gender-sensitive criminal investigations; (d) insufficient reliance on evidence other than witnesses' testimonies;⁹¹ (e) erroneous legal classification of the offence; (f) use of mitigating circumstances to lower the sentences; and (g) insufficiency of effective protection programmes for victims and witnesses. Where customary judicial systems exist, their parallel application may jeopardize gender-sensitive justice. Furthermore, it is not always clear to what extent intimate partner violence or any motives relative to social constructs and norms based on "honour", women's sexuality or discrimination are considered as aggravating the general offence.⁹²

42. It should also be noted that some forms of gender-related killing of women are rarely investigated. Examples include fire-related deaths of women, the practice of sati,⁹³ disappearances of women, female infanticide, witchcraft/sorcery-related killing, forced suicides and self-immolations of women.

43. Gender-insensitive judicial practice also stands in the way of the effective prosecution and punishment of gender-related killing of women. For example,

⁸⁷ Available at www.unodc.org/documents/justice-and-prison-reform/Handbook_on_Effective_police_responses_to_violence_against_women_English.pdf.

⁸⁸ Available at www.unodc.org/documents/justice-and-prison-reform/Strengthening_Crime_Prevention_and_Criminal_Justice_Responses_to_Violence_against_Women.pdf.

⁸⁹ The drafting process of the *Modelo de protocolo latinoamericano de investigación de las muertes violentas de mujeres por razones de género (femicidio/feminicidio)* involved experts and judicial operators from all Latin America and Europe.

⁹⁰ A/HRC/20/16, para. 19.

⁹¹ A/HRC/23/49, para. 53.

⁹² A/HRC/23/49.

⁹³ The practice of sati is defined as the burning alive of a widow on her husband's pyre. See A/HRC/20/16, para. 77.

significant concern has been raised about allowing an accused's cultural background to be considered as factor of special significance in the context of provocation as a partial defence or mitigation for homicide offences.⁹⁴

D. Victims' rights

44. A variety of measures have been adopted by countries to provide protection, support and assistance to women victims of violence. They include risk and safety assessments, enforcement of protection orders, shelters, free psychosocial and legal assistance, toll-free telephone help lines or electronic devices to obtain rapid police assistance.⁹⁵ An adequate legal basis is also crucial to ensure that victims have access to justice and can obtain assistance, protection and compensation.⁹⁶

45. Throughout the years, the United Nations has adopted several normative instruments on the rights for the victims of crime, including violence against women.⁹⁷ The European Union directive on the rights of victims⁹⁸ contains an extensive catalogue of provisions that have already been codified by many of its member States.⁹⁹ In Latin America, the recent criminal procedural reforms undertaken in several countries established special attributions to prosecutor's offices as State guarantors of victims' rights and reinforced the role of the victims within criminal proceedings.

46. The involvement of affected parties in criminal procedure is essential. However, victims continue to face many hurdles to claim their rights and participate in criminal proceedings. In the case of gender-related killing of women, these hurdles are often faced by the children of the women who have been killed or other family members. Often, these obstacles are the combination of inequalities and biases at legal, institutional, structural, socioeconomic and cultural levels.¹⁰⁰

47. The individual and collective dimensions of reparations of gender-related killing of women are usually overlooked or limited to the criminal response. The imposition of a prison sentence on the perpetrator, sometimes coupled with the

⁹⁴ Research shows that inadequate protection has been provided to women threatened of "honour"-related crimes owing to their being characterized as "cultural" rather than understood as an extreme form of violence. WHO and Pan American Health Organization, *Femicide*, 2012.

⁹⁵ UNODC/CCPCJ/EG.8/2014/CRP.1, paras. 97-107.

⁹⁶ *Ibid.*, paras. 14-25.

⁹⁷ See, inter alia, (a) Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34, annex; (b) Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Economic and Social Council resolution 2005/20, annex; (c) Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147, annex; and (d) updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, General Assembly resolution 65/228, annex.

⁹⁸ EU, *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing the Council Framework Decision 2001/220/JHA*.

⁹⁹ EU Feasibility study, p. 90, cited in note 42.

¹⁰⁰ Gender Equality Commission of the Council of Europe, *Feasibility Study Equal Access to Justice*, GEC(2013) 1 abridged Rev., 28 May 2013, para. 234.

payment of pecuniary damages, is often considered sufficient. The Special Rapporteur on violence against women, its causes and consequences underlined the need to engender the way reparations are conceived in order to respond to this type of violence as “part of a larger system of gender hierarchy that can only be fully grasped when seen in the broader structural context.”¹⁰¹ In this regard, the key challenge is to provide “transformative” reparations that “aspire [...] to subvert instead of reinforce pre-existing patterns of cross-cutting structural subordination, gender hierarchies, systematic marginalization and structural inequalities.”¹⁰²

IV. Practical recommendations

A. General recommendations

48. Member States should be encouraged to:

(a) Ratify and implement relevant universal and regional human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Rome Statute of the International Criminal Court, the Maputo Protocol, the Belém do Pará Convention and the Istanbul Convention;

(b) Review, and when necessary, adopt or amend laws, policies, procedures and practices in line with the recommendations contained in the updated Model Strategies, and the recommendations of the relevant human rights mechanisms and committees such as the Committee on the Elimination of Discrimination against Women, in order to ensure that relevant laws, policies, procedures and practices are in conformity with international human rights law, principles and standards, especially regarding women’s rights;

(c) Adopt a legal framework to effectively address gender-related killing of women, including, where appropriate, by providing for specific offences or aggravating circumstances and by ensuring that perpetrators cannot invoke mitigating circumstances such as “passion”, “violent emotion”, “honour” or “provocation” to escape criminal responsibility;

(d) Strengthen the capacity of criminal justice institutions to prevent, investigate, punish and remedy gender-related killing of women, including by:

(i) Implementing training programmes and awareness campaigns;

(ii) Combating and eradicating gender stereotypes and discrimination within institutions and providing adequate sanctions for discrimination and other misconduct;

(iii) Promoting the employment of women in the legal and law enforcement professions, especially at the senior level;

(e) Provide sufficient human, technical and financial resources for the implementation of laws, policies, procedures and practices to prevent and respond to gender-related killing of women;

¹⁰¹ A/HRC/14/22, para. 31.

¹⁰² *Ibid.*, para. 85.

(f) Monitor the implementation of laws, policies, procedures and practices to prevent and respond to gender-related killing of women and evaluate their effectiveness and impact, including from a gender perspective, through transparent and participatory processes;

(g) Take into consideration the Latin American model protocol for the investigation of gender-related killing of women, recently developed by OHCHR and UN-Women,¹⁰³ and consider developing similar instruments for other regions.

49. Relevant United Nations agencies, in particular UNODC, OHCHR and UN-Women, should be encouraged to:

(a) Continue to raise awareness among Member States regarding gender-related killing of women, and to support Member States, upon request, in developing and implementing strategies and policies at the national, regional and international levels to prevent and address gender-related killing of women;

(b) Facilitate the gathering and dissemination of relevant and reliable data and other information to be provided by Member States;

(c) Conduct and coordinate additional empirical research on the context, root causes, risk factors and consequences of gender-related killing of women, and explore the feasibility of conducting a joint global analytical report based on empirical data, with a view to foster a global understanding of gender-related killing of women;

(d) Organize one or more expert group meetings to develop specific technical guidance on the gender-related killing of women that can assist Member States in addressing this issue and implementing the practical recommendations of the intergovernmental expert group meeting.

50. Human rights mechanisms, including relevant treaty bodies and special procedures, should be encouraged to continue to address gender-related killing of women in their work and to consider the recommendations of the intergovernmental expert group meeting when calling on States to implement their due-diligence obligations in this regard.

B. Data collection and analysis

51. Member States should be encouraged to:

(a) Develop, with the assistance of relevant United Nations agencies, a framework to adequately conceptualize a global understanding of gender-related killing of women, for example by identifying and establishing elements that could be used to characterize and classify forms of gender-related killing of women, including for statistical purposes;

(b) Participate actively in the finalization of the draft international classification of crime for statistical purposes, to be submitted to the Statistical Commission and the Commission on Crime Prevention and Criminal Justice

¹⁰³ See supra note 92.

in 2015, and consider ensuring that it includes elements to enable the gathering of data on gender-related killing of women;

(c) Consider developing an indicator on gender-related killing of women to complement the indicators for the documentation of the prevalence of violence against women agreed in the framework of the Statistical Commission, and use these indicators to collect, process and analyse data;

(d) Strengthen the collection, analysis and dissemination of data on gender-related killing of women, using relevant variables such as age, racial and ethnic origin, judicial history, relationship between the victim and the perpetrator, modus operandi, context and motive, taking special care to include reports on violence in rural and marginalized areas, and the situation of specific groups of women;

(e) Collect and analyse data in an integrated manner to consider the links between gender-related killing and different forms of violence against women, including disappearances of women and girls, human trafficking, forced suicides of women, harmful practices, intentionally and non-intentionally inflicted injuries;

(f) Ensure that official data and information are collected and published regularly and transparently, in a format that responds to the needs of a variety of audiences, while respecting confidentiality and preserving the safety and privacy of the victims;

(g) Analyse data from a gender perspective, involving, to the extent possible, relevant government agencies, civil society, academia, victims' representatives and the international community;

(h) Provide regular and institutionalized training to relevant personnel on technical and ethical aspects of the collection and analysis of data on gender-related killing of women;

(i) Participate actively in the annual data collection conducted by UNODC through the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems in order to increase the international availability of reliable data on crime and criminal justice and to improve analyses of global and regional crime threats and the criminal justice response to them.

C. Prevention

52. Member States should be encouraged to:

(a) Ensure that measures to prevent gender-related killing of women:

(i) Are based on a human rights approach (which includes the participation and empowerment of rights-holders);

(ii) Are gender-sensitive;

(iii) Are integrated and holistic, taking into account the relationship between the direct and indirect victims, perpetrators and their wider social environment and can be tailored to each individual case;

- (iv) Address the specific needs of persons that are placed in vulnerable situations or conditions and consider multiple forms and the intersections of discrimination;
- (v) Take into account urban and rural settings and characteristics;
- (vi) Are developed in close cooperation with civil society, in particular women's groups and victims' organizations;
- (b) Promote changes in social norms and attitudes harmful to women through educational programmes and awareness-raising and by conducting or encouraging work with schools and local communities;
- (c) Encourage news media to adopt codes of ethics regarding gender-sensitive reporting on violence against women cases, to ensure that victims' dignity and privacy is respected and to avoid the dissemination of harmful and degrading gender stereotypes, as well as to promote gender equality and non-discrimination;
- (d) Carry out a gender analysis of lethal and other forms of violence against women, to identify the risk factors for and root causes of such violence, taking into account the combined effect of structural determinants, such as social, cultural, economic and political factors, and individual factors;
- (e) Adopt legislation, policies and measures to prevent lethal risks to women victims of violence and to protect victims and witnesses, including simple, quick and accessible protection and restraining or barring orders and adequate risk assessment and management strategies;
- (f) Regulate the possession, use, storage and export of firearms, including by providing for ownership restrictions and risk assessments, in particular where violence against women has been reported, and carry out awareness-raising campaigns on the dangers of firearms;
- (g) Ensure that all forms of violence against women are criminalized and adequately investigated, prosecuted and punished;
- (h) Ensure adequate coordination between different areas of law (such as family law, civil law, criminal law, immigration law) to coherently prevent and address violence that could lead to gender-related killing of women;
- (i) Enhance coordination between institutions mandated to prevent, investigate, punish and remedy gender-related killing of women, as well as coordination with other sectors, including education, health and social services;
- (j) Promote the rehabilitation of perpetrators, including by developing and evaluating treatment and reintegration/rehabilitation programmes that prioritize the safety of the victims;
- (k) Exchange information and experience on promising practices to prevent lethal violence against women.

D. Investigation and prosecution

53. Member States should be encouraged to:

(a) Adopt or review criminal policies, including prosecutorial policies, to ensure that they address all risk factors that can lead to lethal violence against women;

(b) Ensure that competent authorities investigate and prosecute each case of gender-related killing of women with due diligence;

(c) Ensure that women have equal protection under the law and equal access to justice;

(d) Minimize the risk of secondary victimization during criminal investigations and prosecutions;

(e) Ensure an integrated, multidisciplinary and gender-sensitive approach to the investigation of gender-related killing of women, and promote and institutionalize close collaboration and information-sharing among institutions involved in the investigation of gender-related killing of women;

(f) Establish specialized and multidisciplinary units within the police, prosecution service and the courts with specific expertise and sufficient human and financial resources;

(g) Develop and disseminate specialized manuals and protocols and provide regular and institutionalized training to officials involved in the investigation and prosecution of gender-related killing of women so as to ensure that they understand the gendered nature of violence, respond to the specific needs and vulnerabilities of the victims and conduct transparent and effective investigations and prosecutions;

(h) Monitor and sanction criminal justice officials who discriminate against women, who refuse to apply legislation protecting women's rights, or who do not exercise due diligence in proceedings involving violence against women, in particular gender-related killing of women;

(i) Consider, where national legal frameworks permit, expanding the extraterritorial jurisdiction for relevant crimes committed outside the jurisdiction;

(j) Consider establishing appropriate mechanisms and processes to ensure cross-border recognition and enforcement of protection orders.

E. Victims' rights

54. Member States should be encouraged to:

(a) Make respect for the cultural identity, ethnicity, social origin and language of victims of gender-related killing of women an integral part of the legal framework, institutional policies and practices;

(b) Ensure that laws, policies and practices concerning child victims and witnesses are child-sensitive and respect the rights of the child, in line with the Convention on the Rights of the Child and the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime;

(c) Ensure that adequate and effective judicial mechanisms are available to all victims, including in rural and marginalized areas, to enable them to obtain redress for harm suffered;

(d) Enable victims to participate in the criminal proceedings, taking into account their dignity, well-being and safety;

(e) Ensure that victims are provided with prompt and accurate information regarding their rights and available measures for protection, support, assistance and judicial mechanisms to obtain redress, in a way that takes into account the diversity of their language, ethnicity, race, social and economic origin, including by implementing public information campaigns;

(f) Provide adequate psychological support for officials working with victims;

(g) Ensure the availability of adequate reparations, including restitution and compensation, in criminal, civil and administrative proceedings, that respond to the needs of victims;

(h) Ensure that reparations address structural subordination, systemic marginalization and other institutional and social factors that contribute to violence against women and gender-related killing;

(i) Encourage and facilitate the participation of women in the design, implementation, monitoring and evaluation of reparations;

(j) Ensure effective cooperation between all relevant State agencies, including the judiciary, prosecution services, law enforcement agencies, local and regional authorities, as well as non-governmental organizations and other relevant organizations and entities, in protecting and supporting victims.