



# International Service for Human Rights

## The Reports in Short

ISHR's summaries of documents for  
the 4<sup>th</sup> session of the Human Rights Council

### **Special Rapporteur on violence against women, its causes and consequences<sup>1</sup>**

#### **Mandate Holder**

Yakin Ertürk

#### **Mandate**

The mandate was created in 1994,<sup>2</sup> in recognition of the continuing and endemic violence against women and the marked increase in acts of sexual violence. The Special Rapporteur seeks and receives information on violence against women, its causes and consequences, and recommends measures, ways and means, at the national regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences. The mandate covers all forms of violence against women and girls, whether those acts are perpetrated by the State, private persons or armed groups. The issues addressed under the mandate include domestic abuse, sexual violence, trafficking, economic and social policies, child marriages, female genital mutilation and cultural practices.

#### **Activities**

- Annual report;
- The Special Rapporteur sent 78 communications (31 joint urgent appeals, 44 joint letters of allegation and 3 letters of allegation sent by her mandate alone.) As of 1 December 2006, only 36 replies had been received;
- Regional and expert consultations in Mongolia, UK, US, Spain and France;
- Mission to Turkey from 22 to 31 May 2006;
- Mission to Sweden from 11 to 21 June 2006;
- Mission to the Netherlands from 2 to 12 July 2006.

#### **Annual Report<sup>3</sup>**

##### **Scope:**

This is the first report of the Special Rapporteur summarising her activities in 2006. It examines the intersections of culture and violence against women drawn from communications, missions to Turkey, Sweden and the Netherlands, and regional and expert consultations.

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1 Summary prepared by Hannah Klein, Intern, ISHR, edited by Elodie, Intern, ISHR, and Gareth Sweeney, Information Program, ISHR.

2 Commission on Human Rights 1994/45.

3 A/HRC/4/34, 17 January 2007.

## Summary and key conclusions:

- The Special Rapporteur identifies **culture-based identity politics** as a major challenge to achieving gender equality and the elimination of violence against women, and describes how cultural discourses allow violence against women to continue despite international human rights standards.
- The report contests the idea that human rights discourses are based on **Western traditions**, arguing that a history of slavery, genocide, ethnic cleansing and particularly oppression of women was long embedded in Western society.
- The Special Rapporteur documents how women's rights have become aligned with the **universalist language of human rights**. She notes the importance of the *1979 Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW)* and the recommendation of the Committee on the Elimination of Discrimination against Women to recognise that violence against women constitutes a form of gender discrimination.<sup>4</sup> In particular, she notes that the Committee specifically stated that traditional, religious or cultural practice cannot justify violations of the Convention. She then highlights the 1993 adoption of a comprehensible *Declaration on the Elimination of Violence against Women (the Declaration)*, which requires States to condemn actively violence against women, without invoking any custom, tradition or religious consideration to avoid this obligation.
- The report goes on to consider the **harmful practices agenda**,<sup>5</sup> focusing on female genital mutilation (FGM). The Special Rapporteur criticises the distinctions made between non-Western traditional practices, resting on cultural bases, and “non-traditional practices, such as rape and domestic violence”.<sup>6</sup> This implies, with little basis, that rape and domestic abuse in the West are not based on harmful social traditions. The Special Rapporteur also criticises the distinction between the 'practices' being targeted and the social problems underlying them.
- The Special Rapporteur examines **global instruments** that have been introduced in the name of culture, but may jeopardise efforts to eliminate violence against women. In particular, she notes the 2005 *UNESCO Convention on the Protection and Promotion of Diversity of Cultural Expressions*; Article 27 of the *International Covenant on Civil and Political Rights*; and the *United Nations Declaration on the Rights of Indigenous People*, adopted by the Human Rights Council in 2006 but still to be approved by the General Assembly.
- The report also mentions **regional frameworks** that challenge the primacy of women's rights through rights terminology, giving examples of the *Cairo Declaration on Human Rights in Islam* and the *Bangkok Declaration*.
- The Special Rapporteur examines the **colonial legacy as a basis for cultural relativism**, noting that in many instances women found themselves with a “choice” between gaining new rights by joining forces with imperialist projects, or remaining loyal to their own culture and its oppressive aspects.
- The report examines the **orientalization of culture**, where culture is only defined as a characteristic of 'other' non-Western people, and this mystifies the idea, insulating it from challenges. It argues that in fact numerous western cultural ideologies also contribute to gendered cultural practices.
- The Special Rapporteur examines ways of **challenging hegemonic cultural paradigms**. She advocates a process of “cultural negotiation”, where positive cultural elements are emphasised, while the oppressive elements are demystified.<sup>7</sup> She argues that compromising women's rights

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<sup>4</sup> See Report of the Committee on the Elimination of Discrimination against Women, Official Records of the General Assembly, Forty-seventh session, Supplement No. 38 (A/47/38), chap. 1, paras. 6 and 7.

<sup>5</sup> This was formalized in 1984 through the establishment, by the Sub Commission on Prevention of discrimination and Protection of Minorities of the Commission on Human Rights, of a working group on harmful traditional practices.

<sup>6</sup> *Harmful Traditional Practices Affecting the Health of Women and Children*, Human Rights Fact Sheet No. 23, 1995.

<sup>7</sup> See E/CN.4/2006/61.

is not an option and that universal human rights principles must be advocated in the face of cultural relativism.

- To **demystify culture**, the Special Rapporteur argues that culture is wrongly seen as static, and that customary laws have been exacerbated by colonial rule. She claims that culture is wrongly seen as homogenous and monolithic, and is mistaken for being detached from prevailing power relations. Political factors such as the war against terror and militarist movements often reinforce dominant cultural paradigms.

### **Key Recommendations:**

- Culture should be seen as historically constructed, representing diverse subject positions and interests.
- Cultural practices should always be understood with their political and economic underpinnings.
- All forms of violence against women should be seen as a continuum and intersectional with other forms of inequality. Therefore, all frameworks relating cultural diversity and group-based rights should refer explicitly to CEDAW. All reservations to CEDAW with reference to culture, tradition, custom or religion, should be withdrawn.

### **Mission to Turkey<sup>8</sup>**

#### **Scope:**

The mission took place between 22 - 31 May 2006. The mission was motivated by media reports about rising rates of suicides among women and girls in South-Eastern and Eastern Turkey. It was therefore geographically limited to this region. The Special Rapporteur met with Government officials, NGOs, local officials, social services officials, families of suicide victims and women who had survived suicide attempts.

#### **Summary and key conclusions:**

- The Rapporteur discusses Turkey's modernisation process. She argues that despite the "women question" being put at the forefront of the political agenda, basic development indicators for Turkish women show their situation to be bleak and progress is highly regionalised.
- There are no comprehensive statistics on violence against women in Turkey. However, the Special Rapporteur cites numerous studies showing that it is pervasive and that domestic violence is widely considered to be a normal aspect of family life.
- The Rapporteur explores honour (*namus*) related violence against women. She argues that the concept of *namus* serves to reproduce the rigid control exercised over women and their sexuality. She found it to be particularly prevalent in the region examined in the report, as it is codified into customary law (*töre*). Families must ensure that the code of honour is observed by all family members as transgressions are seen as "stains" on the whole family. These stains may have to be cleansed at any cost, if necessary through murder.
- The Special Rapporteur discusses suicides of women in Eastern and South-Eastern Turkey. She argues that there are reasonable grounds to believe that some of the recorded suicide cases are disguised murders and forced suicides related to *namus*.
- The Special Rapporteur identifies excessive, sensationalist and graphic media coverage of suicides as a contributing factor in their increased occurrence.
- Reforms of 1 June 2005 to the Turkish penal Code removed most obvious patriarchal biases from the law. Yet, despite these advances in the legislative framework, the Rapporteur argues

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<sup>8</sup> A/HRC/4/34/Add.2

that many problems persist in their implementation. She particularly notes the lack of protective mechanisms for women, such as shelters.

### **Recommendations:**

#### **The Government of Turkey should:**

- Launch a nation-wide campaign to bridge the gender-gap in all political, economic and social spheres, particular in girl's education;
- Improve the legal and institutional framework for promoting equality, preventing violence against women and protecting women already at risk of violence;
- Implement a zero-tolerance policy towards all violence against women;
- Identify and adjudicate cases of forced suicide and disguised murders;
- Improve the database on violence against women;
- Improve suicide prevention measures.

#### **The media should:**

- Challenge gender stereotypes;
- Show sensitivity when reporting on suicides.

#### **Civil society should:**

- Document and disseminate information on violence against women.

#### **The international community should:**

- Support the initiatives of local women's groups, research, academia and the United Nations country team in their work on the promotion and protection of women's human rights.

### **Mission to Sweden<sup>9</sup>**

#### **Scope:**

The mission took place between 11 - 21 June 2006. Despite the apparent marked progress towards gender equality, Sweden was reported to retain a considerable level of violence against women. The report on the mission focuses on various facets of violence against women, including intimate partner violence, sexual violence and violence in the context of prostitution. It also addresses the special vulnerabilities of immigrant, refugee, minority and indigenous Saami women.

#### **Summary and key conclusions:**

- Despite an impressive legal framework and the importance of the feminist movement in driving forward a mainstreaming agenda, women are still unequal to men in many fields. In recent years, activists and policy initiatives that address remaining gender inequalities have faced a backlash.
- People from religious and ethnic minorities are rejecting ethical norms that are perceived as "Swedish virtues", particularly in the field of women's rights.
- More than a third of all women in Sweden who had cohabited with a man at least once in their life had been subjected to violence by a partner.<sup>10</sup> 46,000 children in Sweden are exposed to intimate-partner violence committed against their mother.<sup>11</sup>

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<sup>9</sup> A/HRC/4/34/Add.3

- Reports of sexual violence against women have steadily risen over the last two decades. Experts suggested to the Special Rapporteur that this increase is related to both an actual increase in sexual violence and a greater willingness to report these crimes.
- Women of immigrant, asylum seeker or refugee backgrounds are particularly vulnerable as their legal residence status may be invalid or dependent on their continuing their relationship the Swedish national who is abusing them. The term “honour-related violence” is used broadly to refer to violence against those who defy their family’s expectations of “honourable” behaviour, committed against both women and girls, and homosexual or bisexual boys and men.
- Special Rapporteur received anecdotal accounts from women in the Saami community, an indigenous community of 20,000 people, suggesting significant levels of violence and reluctance to access mainstream Swedish authorities for protection.
- In Sweden, all prostitution is considered to constitute violence against women and the Swedish Parliament has enacted a law prohibiting the purchase of sexual services. The implementation of this Act is well resourced. Although there has not yet been a comprehensive review of the effects of this policy, demand for prostitutes from traffickers appears to have decreased, while local women who remain in street prostitution report increasing vulnerability to violence.
- The report praises the advances Sweden has made in the fields of protection and prosecution. However, it highlights room for improvement in the field of prevention.

### **Key recommendations:**

#### **The Government of Sweden should:**

- Enhance and reinforce the institutional framework on gender equality, particularly by considering ratification of the Council of Europe Convention on Action against Trafficking in Human Beings;
- Address root causes of violence against women;
- Prosecute and punish perpetrators, which could be aided by ensuring specialised training for the police, medical personnel and other professionals;
- Protect women at known risk of violence. Recommended measures to achieve this goal included dedicating adequate resources to enforce restraining orders and recognising the important role of non-governmental women’s shelters;
- Expand the knowledge base on violence against women.

#### **Non-State actors:**

- The media should avoid gender stereotypes;
- The women’s movement should continue and strengthen efforts to integrate other constituencies into the struggle to achieve gender equality;
- All municipalities should adopt action plans on violence against women.

### **Mission to the Netherlands<sup>12</sup>**

#### **Scope:**

The mission took place between 2 - 21 July 2006. It focused on intimate-partner violence, violence in the context of prostitution and the situation of immigrant, asylum-seeking and refugee women.

#### **Summary and key conclusions:**

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<sup>10</sup> National Survey on Violence Against Women, 2001.

<sup>11</sup> UNICEF, Behind Closed Doors: The Impact of Domestic Violence on Children (2006).

<sup>12</sup> A/HRC/4/34/Add.4

- Notable increase in diversity in the Netherlands in recent years, with every third resident of Amsterdam, Rotterdam and The Hague now has a non-Western background. The socioeconomic position of these immigrants is substantially worse than that of the native population. The political backlash against immigration and immigrant communities. Recent integration policies relating to minority women have been seen as lacking in credibility, and conflating women's emancipation measures and immigration restriction measures.
- The Netherlands' weak institutional framework for promoting gender equality may be a reflection of a widespread belief that the emancipation of native Dutch women has been completed. The Rapportuer outlines existing inequalities to refute this.
- 100,000 children in the Netherlands witness domestic violence each year. Laudable measures and funding for a zero tolerance strategy are undermined by inadequate reports written by the police, and a tendency for prosecutors to overemphasise reconciliation between partners and voluntary treatment programmes for offenders. Other positive policies are undermined by the determination of Government to define their domestic violence framework in gender-neutral terms.
- Immigrant, refugee and asylum-seeking women are particularly vulnerable. 60% of all women seeking refuge in Dutch shelters are of foreign background.<sup>13</sup> 16,000 to 20,000 girls are and young women are considered to be at risk of female genital mutilation (FGM) in the Netherlands.<sup>14</sup> She reports that the Government is perceived to selectively focus on special phenomena such as FGM without adequately addressing the general vulnerabilities of immigrant women.
- Regarding the 20,000 women involved in prostitution in the Netherlands, the Special Rapporteur highlights the Netherlands' distinction between legal prostitution and involuntary prostitution, prostitution of minors and trafficking. The Government operates a zero tolerance policy against the latter. Although women in the legalised and regulated sex sector are better protected than before prostitution was legalised, a number of unintended side effects of legalisation have occurred, including a "grey" sector that escapes regulation, and a substantial number of women seem to have shifted into the unregulated sector to avoid taxation or municipal regulations. Finally, the Special Rapporteur notes that the position of women in the prostitution industry is undeveloped, as it seen as an industry run by men for men, and women are often not aware of their rights *vis-à-vis* their brothel owners.

### **Key recommendations:**

#### **The Government of the Netherlands should:**

- Improve gender-equality policy and institutional framework with measures such as further reforming the social security and taxation system to facilitate the participation of women in the labour market;
- Eliminate all forms of discrimination with policies such as promoting a new social consensus that aims to achieve integration based on equal participation and mutual respect;
- Investigate and punish perpetrators of violence against women, and protect women at risk of violence. Recommended measures include ensuring regulation of the entire sex sector;
- Address particular vulnerabilities of women who are not Dutch citizens. Recommended measures include ensuring that undocumented immigrant women have full access to State protection against violence, and adopting gender-sensitive asylum procedures;
- Expand the knowledge base on violence against women by commissioning research.

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<sup>13</sup> Kvinnoforum, Honour Related Violence: European Resource Book and Good Practices, Stockholm:Kvinnoforum (2005).

<sup>14</sup> According to Pharos, a national expertise centre on female genital mutilation-