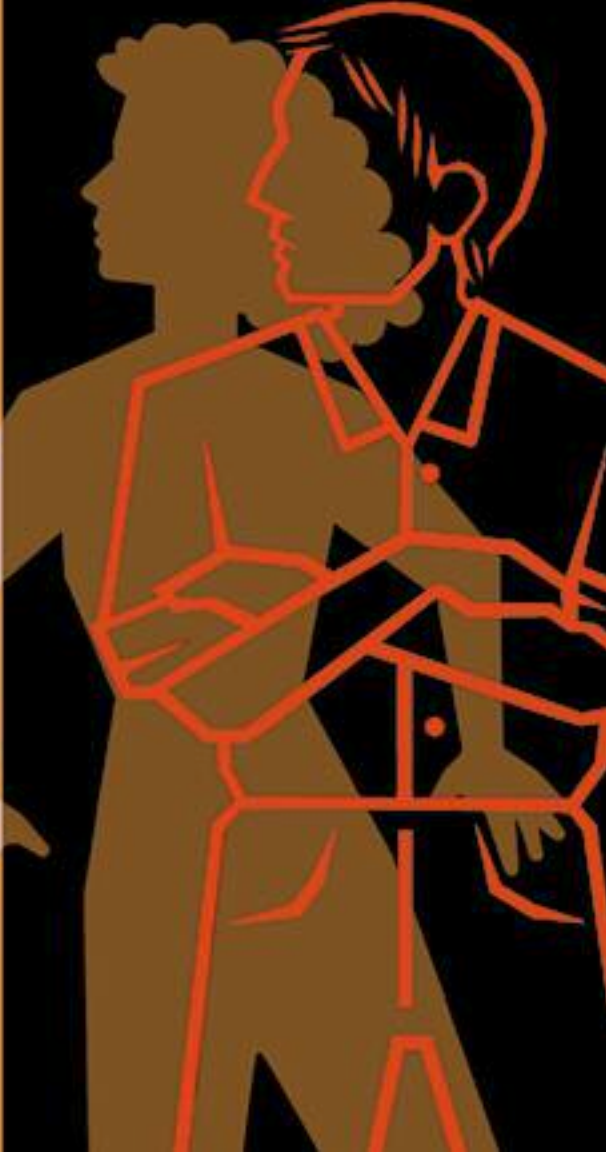


Documenting Women's Rights Violations

by Non-state Actors



by Non-state Actors

Documenting Women's Rights Violations

Activist Strategies
from Muslim Communities

by Jan Bauer
and Anissa Hélie



Rights & Democracy

International Centre for Human Rights
and Democratic Development

عنواننا، زياره مسام قوانین
النساء في ظل قوانين المسلمين
Femmes sous lois musulmanes

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*In memory of Salma Sobhan,
a friend*

PREFACE

For years, the accepted wisdom was that human rights principles and law applied only, or mainly, to the mediation of the relationship between citizens and the State. This view was held and promoted by, among others, academics, lawyers and jurists, as well as many international non-governmental organizations (INGOs) and activists. The majority of these institutions and individuals were North American and Western European. In parallel, the doctrine of due diligence, the State's obligation to protect and promote rights and freedoms, was mainly interpreted as an obligation to "sanction itself." Its agents (police, security forces, military) were to act, and institutions (the justice system, legislative bodies, ministries and departments) were to be established and operate in a manner consistent with the protection of human rights. Under this classical interpretation of rights, only States violated human rights and anyone else who acted inappropriately was a criminal. States had a great deal of latitude in terms of accountability and remedy, and the notion of a private sphere of human behaviour, in which the State could not or should not interfere, was sustained.

With few exceptions, INGOs did not change their approach very much until the mid to late 1990s and, even then, they tended to focus on such non-state actors as armed opposition groups and/or secessionist movements. However, there were also concerns that applying human rights methodology and monitoring to such entities would confer on them a quasi-state status to which the rights, privileges and immunities of a State would attach. The unwillingness to deal consistently with private/non-state actors also reflected

the determination not to shift the emphasis away from the responsibility of the State to ensure the well-being of all persons living within the territory over which it exercised jurisdiction. Failings or inadequacies, especially in the areas of civil and personal status law (including in developed countries), were largely left to be discovered and remedied.

The separation of behaviours and laws which may or may not apply — between those of State/non-state and public/private nature — may be tidy and even convenient. The effect, however, was to establish an “international methodology,” which is still maintained in some quarters, and through which the crimes, abuse and violations directed against women and girls (and, in some instances against persons belonging to vulnerable groups) are ignored. The question is whether this can still be justified.

The Convention on the Elimination of All Forms of Discrimination Against Women, Article 2 (e) stipulates that States Parties will undertake “all appropriate measures to eliminate discrimination against women *by any person, organization or enterprise*” [emphasis added]. Subsequent articles deal with such matters as eliminating discrimination in access to education, health and employment as well as ensuring equality in matters pertaining to family, nationality and related areas. In each of these cases, substantial control of how this will be put into practice and of the context is in the hands of private/non-state actors.

The phrase “Women’s Rights are Human Rights” is far more than a catchy slogan. It is the underlining thesis of this manual that violence against women is a human rights violation and is unacceptable. Human rights is a universal concept reflected in all cultures. The concept of human rights has been rearticulated and reformulated throughout

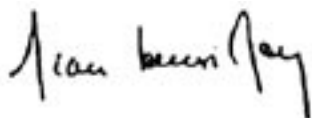
the ages and is continually evolving to deal with all attacks on human dignity and self esteem, no matter how these attacks are justified.

It was the concept of human rights, as expressed in terms of the right to self determination, that formed the basis of the struggles for independence from colonial domination. It was the concept of human rights that challenged apartheid and racial discrimination. In a world where State sovereignty is jealously guarded, human rights is the concept that has provided the basis for international law and it is the conscious attention to women’s human rights that ensures that human rights cuts through the public/private debate.

It is now generally accepted that a citizen’s relationship with the State should be governed by human rights and that the State is responsible for ensuring that its agents do not violate people’s human rights in the course of their duties. But that is not all. It is clear that the State has an equal obligation to monitor and prevent violations of human rights when they are perpetrated by non-state actors as well. Legal systems in most countries recognize that it is the duty of the State to enforce criminal law. Since the State clearly has a duty to enforce this law, there should be no debate about whether violence against women is a criminal offence and therefore within the jurisdiction of the State to intervene. Violence against women is always a crime, but some legal systems either fail to recognize this or fail to adequately deal with it. Such failures are violations of women’s human rights.

These failures are particularly evident in acts of violence against women that are committed not by State agents, but by non-state actors. Rights & Democracy (R&D) and Women Living Under Muslim Laws (WLUML) decided to work

together on this particular manual because we saw it as an opportunity for both human rights groups and women’s human rights organizations to better understand the scope of the issue. In it, we examine the nature of violations perpetrated by non-state actors and focus on how activists should document and campaign to address violence committed against women by non-state actors. Although women everywhere are subject to this type of human rights violation, the global scope of the issue is better understood through examples drawn from activists’ experiences within various Muslim contexts. Our immediate goal is to provide activists anywhere in the world with additional tools to struggle against impunity.



Jean Beaman
President Rights & Democracy



Homa Hoodfar
on behalf of Women Living Under Muslim Laws

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GLOSSARY OF ACRONYMS

APWLD	Asia Pacific Women, Law & Development
AWLI	African Women's Leadership Institute
BDPA	Beijing Declaration and Platform for Action
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CSW	Commission on the Status of Women
DEVAW	Declaration on the Elimination of Violence Against Women
ECOSOC	UN Economic and Social Council
FGM	Female genital mutilation
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDRF	India Development and Relief Fund
INGOS	International non-governmental organizations
UPDF	Ugandan army
WLUML	Women Living Under Muslim Laws

Violence against women is perhaps the most shameful human rights violation, and it is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace.

Message of Kofi Annan, UN Secretary-General, on International Day for the Elimination of Violence Against Women, 1999.

INTRODUCTION

Article 1 of the Universal Declaration of Human Rights states that “All human beings are born free and equal in dignity and rights.” Human rights are, therefore, *universal*.

In his opening statement to the 1993 World Conference on Human Rights (Vienna), the former UN Secretary-General, Boutros Boutros-Ghali, affirmed several principles.¹ Among them were the following:

- Human rights “viewed at the universal level, bring us face-to-face with the most challenging dialectical conflict ever: between ‘identity’ and ‘otherness’, between the ‘myself’ and ‘others’. They teach us in a direct, straightforward manner that we are at the same time identical and different.”
- Human rights “... are not the lowest common denominator among all nations, but rather [...] the ‘irreducible human element’, in other words, the quintessential values through which we affirm together that we are a single human community.”
- Human rights “... constitute the common language of humanity. Adopting this language allows all people to understand others and to be the authors of their own history. Human rights, by definition, are the ultimate norm of all politics.”

1 The full text of Boutros Boutros-Ghali’s opening statement is available in *World Conference on Human Rights: The Vienna Declaration and Programme of Action*, June 1993, published by the United Nations.

For years, the accepted wisdom was that human rights principles and law applied only, or mainly, to the mediation of the relationship between citizen and State. This view was held and promoted by, among others, academics, lawyers and jurists, as well as a number of international non-governmental organizations (INGOs) and activists. The majority of these institutions and individuals were based, lived and worked in North America and Western Europe. At the same time, the doctrine of due diligence (the State's obligation to protect and promote rights and freedoms) was mainly interpreted as the obligation of the State to "sanction itself." Its agents (e.g., police, security forces, military) were to act in a manner consistent with the protection of human rights. Institutions (e.g., the justice system, legislative bodies, ministries and departments) were to be established and run on the same basis. Under this classical interpretation of rights, only States could violate human rights and anyone else who acted inappropriately was a criminal. In the case of an institution or organization, it was seen as a criminal enterprise. A wide margin of appreciation was granted to States in terms of accountability and remedy. The notion of a private sphere of human behaviour, in which the state could not or should not interfere, was sustained.

With few exceptions, the approach taken by INGOs did not change much until the mid to late 1990s and, even then, the focus tended to be on such non-state actors as armed opposition groups and/or secessionist movements. In part, this reluctance reflected a concern that to apply human rights methodology and monitoring to such entities would confer on them a quasi-state status to which the rights, privileges and immunities of a State would attach. The unwillingness to deal with non-state actors systematically also reflected the determination not to shift the emphasis

away from the responsibility of the State to ensure the well-being of all persons living in the territory over which it exercised jurisdiction. Failings or inadequacies, especially in the area of civil law and personal status, including in developed countries, were largely left to be discovered and remedied through internal critique.

The question of jurisdiction and/or effective control of territory still tends to define the thinking — in terms of non-state entities — of a number of individuals and institutions working in the area of human rights. As such, the emphasis remains on individuals and groups in armed opposition. It is posited: (a) "armed opposition groups exercising 'effective power' over a significant segment of population and conducting sustained organized armed hostilities" may "for both conceptual and legal reasons be considered capable of violating human rights"; (b) the behaviour of an "armed opposition group not exercising effective power" cannot be similarly characterized.² In the latter case, it is assumed that States can and will responsibly apply relevant and appropriate internal criminal sanctions against members of such a group and that international and regional standards and law generally do not apply to such entities.

The separation of behaviours and laws which may or may not apply — between those of State/non-state and public/private nature — may be tidy and even convenient. Its effect, however, has been to establish an "international methodology" which is still maintained in some quarters and through which crimes against, and abuse and violations of women and girls (and, it may be argued, in some

2 Nigel S. Rodley, "Can Armed Opposition Groups Violate Human Rights?" p. 298, in K.E. Mahoney and P. Mahoney (eds.), *Human Rights in the Twenty-first Century*, (Martinus Nijhoff, Netherlands), 1993.

instances against persons belonging to vulnerable groups) are sidetracked. The question is: Can this still be justified?

With these and other points in mind, this manual aims to provide tools to help further the work of activists — particularly those investigating and addressing violence against women perpetrated by non-state actors. It is especially designed for activists without legal backgrounds, with the aim of directing them towards legal definitions and human rights mechanisms that may help them in their efforts to ensure that states fully meet their obligation to protect.

Despite the considerable achievements of the women’s movement over the last decades in exposing violence against women as a human rights violation, it occurs in every country and cuts across class, race, ethnicity or religious affiliation. This violence is manifested in different ways in different contexts. The various ways in which it is described, however, often tends to blur its essential nature. As Widney Brown rightly points out “whether we call it ‘honour crime’ in Jordan, or ‘crime of passion’ in Mexico or ‘domestic violence’ in the United States, and whether some terms appear more loaded than others, what we are really talking about, in each instance, is violence against women.”³

While all women are vulnerable to violence, there are factors that increase the risk of some women becoming victims of violence and/or reduce their access to justice. For example:

- the dual effect of being female and economically deprived or dependent, trapping a woman in a violent situation;⁴

- race as an additional factor in some societies;
- the status of migrants in some societies;⁵
- the isolation of rural settings, making it physically impossible for women to use various services (e.g., medical, temporary shelter, counselling);
- age, health status, sexual identity or access to knowledge.

The UN General Assembly, in its Declaration on Elimination of Violence Against Women (1993, also referred to as DEVAW in the text), expressed its concern that “Some groups of women, such as women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women and women in situations of armed conflicts, are especially vulnerable to violence.”

It is important, therefore, to systematically consider the inter-connection between various forms of oppression and violence.

The concept of non-state actors and its relationship with international human rights law is complex and multi-faceted. It is therefore not possible in one manual to address each and every area. While gender violence affects both women and men (and men in different ways than women), the focus is specifically on violence against women.

³ Widney Brown, Deputy Program Director, Human Rights Watch, phone interview, October 12, 2004.

⁴ The Beijing Platform for Action (1995) defines the “low social and economic status of women” as “both a cause and a consequence of violence against women,” Chapter IV (Strategic Objectives and Actions), article 112; A/CONF.177/20, October 17, 1995.

⁵ See for example, Mallika Dutt, Leni Martin and Helen Zia, *Migrant Women’s Human Rights in G-7 Countries — Organizing Strategies*, Family Violence Prevention Fund and Center for Women’s Global Leadership, 1997, p. 69.

Three categories of non-state actors are considered:

- Non-state actors in the family: blood relatives (parents, siblings, extended family members) and partners (in both married or common law unions);
- Non-state actors in the community: e.g., neighbours as well as unknown persons, the medical profession, employers, religious leaders or educational institutions operating outside the state system (for example, *madrassas*);
- Non-state actors in the context of conflict — armed groups: e.g., the use of sexual violence as a strategy of war, the need to enforce at the legal level the accountability of members of armed groups who commit acts of violence against women.

“Gender refers to socially constructed roles of men and women ascribed to them on the basis of their sex, whereas the term ‘sex’ refers to biological and physical characteristics. Gender roles depend on a particular socio-economic, political and cultural context, and are affected by other factors, including age, race, class and ethnicity. Gender roles are learned, and vary widely within and between cultures. Unlike a person’s sex, gender roles can change. Gender roles help to determine women’s access to rights, resources and opportunities.”

Implementation of the outcome of the Fourth World Conference on Women, A/51/322, paras. 7–14.

In terms of relatives and other non-state actors within the community, the legal framework most often cited is international human rights standards, in addition to regional or national mechanisms.⁶ With respect to armed groups,

⁶ The terms “human rights standards” or “international standards” refer to the various instruments (declarations, conventions, covenants, etc.) that set out the principles and definitions of rights within the international system.

international humanitarian law defines what is permissible — or not — in armed conflicts, supported by provisions in specific human rights instruments.⁷

There are a number of issues that are not included in this manual but that may be discussed in other publications. They include the following:

- Violence against girls: prenatal sex selection, female infanticide, malnourishment of girls to provide more food for boys, sexual abuse, incest, sexual mutilation, early marriage, forced labour, trafficking, denial of education, imposition of dress codes, abduction by one parent, etc.;
- Violence against women perpetrated by mercenaries and private security companies;
- The violence women face from their employers or co-workers within the context of global trade.

The manual has two main aims: (a) to facilitate the understanding of formal legal approaches by explaining the steps involved in documenting human rights violations by non-state actors within the international human rights system; (b) to explore non-legal approaches, i.e., activist work that is carried on outside the formal law-based human rights system but that uses human rights concepts and principles.

It also describes documentation work related to the kinds of abuses to which women fall victim. It highlights the process of evidence collection, the use of different methodologies to

⁷ For example, the UN Declaration on the Protection of Women and Children in Emergency and Armed Conflict, adopted by the UN General Assembly in 1966 and entered into force in March 1976; Security Council Resolution 1325 on the Rights of Women and Children in Armed Conflict.

gather such evidence, and information on what to do with it. Attention is also given to some of the questions activists must ask themselves beforehand. The scope of this manual does not allow for a detailed explanation of the requirements for legal documentation, since legal remedies and procedures are based on the domestic legal framework of a given country. Information is included, however, on how activists use evidence based on documentation work in non-legal ways.

It is not the aim of the manual to promote one strategy over the other. At times, different strategies can be combined. Depending on the political context, one approach may be more effective than another. Also, one strategy may be more appropriate in a certain setting, while benefiting from the experiences gained elsewhere. The manual offers examples of how women have used human rights in their local context while providing information that can help them become more familiar with — and possibly engage in — the international human rights system.

The manual offers concrete examples of specific kinds of violence against women perpetrated by non-state actors and identifies strategies that have been used in various regions to address them. The emphasis is on strategies that have proved successful. Arguments that challenge the work of women's advocates and the issue of possible backlash are also addressed.

STANDARDS FOR DOCUMENTING ABUSES BY NON-STATE ACTORS

The principles of universality, inalienability, interdependency and indivisibility of human rights are affirmed in all major international and regional human rights treaties and associated instruments (such as declarations). This principle does not allow for a system based on a hierarchy of rights. The treaties clearly set out the duty of States to ensure not only the respect of these rights but also their protection and promotion. Many also refer to the duty of States not to support, condone or tolerate activities and actions by non-state actors that result in the abuse of the human rights of others. The duty of States to protect requires that they take appropriate and proportionate action, when needed, against, for example, “a group or person,” “private persons,” “any person, organization or enterprise,” “individuals, groups of individuals, institutions or non governmental organizations,” “legal persons” or “an organized criminal group.”⁸

Despite these and similar references in treaties, the international community has been slow to accept that violence against women is a human rights violation and a criminal act. In 1945, for example, the statutes of the Nuremberg

⁸ These and similar references are found in the International Bill of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Declaration on the Elimination of Violence against Women, the Convention on the Rights of the Child, the Convention on the Rights of Migrant Workers and Members of Their Families, etc.

and the Tokyo tribunals failed to include rape in armed conflict and did not define it as a war crime. Until recently, female genital mutilation (FGM) was seen as a cultural practice and not a violation of women's rights (see article 2b of the Declaration on the Elimination of Violence Against Women). And, it has only been since late 2004 that marital rape and "honour" crimes have been addressed within the framework of international law. The challenge that remains is to emphasize the provisions in relevant treaties and instruments that refer to non-state actors and to ensure that states take remedial action as required.

Relevant Treaties, Instruments and Resolutions

International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the General Assembly of the UN in December 1966 and entered into force in March 1976. The male orientation of the language in the English version of the Covenant reflects the age in which it was written and assumed that the use of, for example, male pronouns included the female. Thus, references to "his" rights must be read as including women and may not be construed as exclusionary. The preamble to the Covenant sets out the principle that

... the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his [her] civil and political rights, as well as his [her] economic, social and cultural rights ...

Article 2 of the ICCPR states:

Each State Party [a state that has acceded to or ratified the ICCPR] to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the [...] Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

In article 3, the States Parties to the Covenant undertake to "ensure the equal right of men and women to the enjoyment of all civil and political rights" set out in the ICCPR.

In addition to the protection provided by the non-discrimination clause in article 2, a number of articles elaborate rights that are relevant when dealing with violence against women and non-state actors. Several of these rights are non-derogable — i.e., no justification can be given for violating them. These non-derogable rights are

- the inherent right to life (article 6);
- the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (article 7);
- the right not to be imprisoned for an inability to fulfil a contractual obligation (article 11);
- freedom of thought, conscience and religion (article 18).

Other articles in the Covenant deal with rights that are often particularly important to women and the issue of violence against them — whether sanctioned by the State or perpetrated by non-state actors. These articles refer to the following, among other things:

- effective remedy for violations of rights;
- the prohibition of slavery and the slave-trade, as well as of servitude;
- the right to liberty and security of person;
- freedom of movement and the right to choose one's own residence;
- freedom to leave and to return to one's own country;
- equality before the law;
- the right to recognition everywhere as a person before the law;
- the prohibition of arbitrary or unlawful interference with privacy, family, home or correspondence;
- freedom to hold opinions without interference;
- freedom of expression (including the right to dissent) and the right to seek, receive and impart information;
- the right to peaceful assembly;
- protection of the family by society and the State;
- the right to take part in the conduct of public affairs, to vote and to be elected;
- the right of persons belonging to minorities to enjoy their own culture, to profess and practice their own religion or to use their own language.

As with other international human rights treaties, the provisions of the Covenant are primarily directed at the State. Article 5 of the ICCPR, however, specifically states that

Nothing in the present Covenant may be interpreted as implying for any State, *group or person* any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized [in the Covenant] or at their limitation to a greater extent than is provided for in the [Covenant].

The Covenant requires States to ensure that the laws are consistent with its provisions. The reference to a *group or person* means that the State must apply the laws against a group or person whose actions violate the rights set out in the Covenant.

International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted in December 1966 and entered into force in January 1976.

Article 2 (2) stipulates that

States Parties [...] undertake to guarantee that the rights enunciated in the [...] Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

As in the ICCPR, article 3 requires States Parties to ensure “the equal right of men and women to the enjoyment of all economic, social and cultural rights” set out in the Covenant.

Articles in the ICESCR that are particularly relevant to women in terms of situations and places in which they may be

vulnerable to violence and/or unfair treatment by either the State or a non-state entity refer to, among other things:

- the right to employment, equal pay for work of equal value, conditions of work that are not inferior to those enjoyed by men (article 7);
- the right to social security, including social insurance (article 9);
- protection and assistance to the family; special protection to mothers for a “reasonable period” before and after childbirth; protection of children and young persons from economic and social exploitation (article 10);
- the right to the highest attainable standard of physical and mental health (article 12);
- the right to education (article 13).

Article 5 of the ICESCR sets out the same prohibition as in the ICCPR on activities or acts by the State, a *group or person* that are “aimed at the destruction of any of the rights or freedoms” set out in the Covenant “or the limitation to a greater extent than is permitted” in the ICESCR.

Convention on the Elimination of All Forms of Discrimination Against Women

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW⁹) was adopted by the UN General Assembly in 1979 and entered into force in 1981.

⁹ CEDAW is also referred to as the “Treaty for the Rights of Women” or the “Women’s Convention.” Arabic, Chinese, English, French, Russian and Spanish translations of CEDAW are available from the UN at www.un.org/womenwatch/daw/cedaw/

As of March 2005, 180 countries had ratified CEDAW. It is the only human rights instrument that specifically addresses women’s human rights.

The principles that animate the Convention are set out in the preamble. The specific intent, in terms of the duties and responsibilities of States, is set out in article 2:

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women *by any person, organization or enterprise*; [emphasis added]

- (f) To take all appropriate measures, including legislation, to *modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women*; [emphasis added]
- (g) To repeal all national penal provisions which constitute discrimination against women.

Other articles in CEDAW deal with such issues as

- temporary special measures to accelerate de facto equality between women and men (article 4);
- the elimination of prejudices, as well as customary and other practices, based on the idea of the inferiority or superiority of either sex, and the elimination of stereotypes of the roles of women and men (article 5);
- the common responsibility of women and men in the upbringing and development of their children (article 5);
- suppression of all forms of trafficking in women and the exploitation of prostitution of women (article 6);
- the right of women, on equal terms with men, to participate in the political and public life of the country — to vote and to be elected, to participate in non-governmental organizations and associations active in this area (article 7);
- the right of women to represent the government at the international level and to participate in the work of international organizations (article 8);
- the right to acquire, change or retain nationality; the nationality of children (article 9);

- equal rights with men and boys in the field of education, including measures to reduce female student drop-out rates (article 10);
- equality in employment and free choice of employment and profession (article 11);
- the elimination of discrimination against women in the field of health care (article 12);
- the elimination of discrimination against women in the areas of economic and social life (article 13);
- the particular problems faced by rural women (article 14);
- equality before the law (article 15);
- the elimination of discrimination in all matters related to marriage and family relations (article 16).

States that have ratified CEDAW are required to take measures to eliminate discrimination against women and to ensure that all of the rights that are set out in the Convention are fully protected and promoted. The international system allows States, however, to enter reservations to provisions of the treaties they have voluntarily ratified and the obligations they have accepted. It is these reservations that continue to be a major obstacle to full implementation by States Parties. CEDAW remains the human rights treaty to which more States have entered reservations than any other.

The CEDAW Committee has stated its concern about both the number and the extent of the reservations of States Parties to some articles of the Convention, noting in particular, articles 9, 15 and 16. These articles deal with nationality, legal capacity, and marriage and family relations. The Committee noted that the Convention has more

reservations attached to it than any other UN treaty and stated that there is a clear discrepancy between the promotion of women's rights and the maintenance of reservations to the Convention. In resolution 51/68 (of December 12 1996), the General Assembly called on States to limit the extent of any reservation they entered to ensure that no reservations were incompatible with the object and purpose of the Convention. The General Assembly also called upon States to review their reservations regularly, with a view to withdrawing them.

As noted by Ann Elizabeth Mayer:

Although few Muslim countries have ratified CEDAW, among those who have, all have entered reservations to its substantive provisions, several on religious grounds. [...] Implicitly, the UN acquiesced to the cultural relativist position on women's rights in the Middle East, allowing parties to CEDAW to invoke Islam and their culture as the defence for their non-compliance with the terms of the convention. [...] CEDAW was premised on the notion that, where cultural constructs of gender were an obstacle to the achievements of women's rights, it was the culture that had to give way — not that women's rights should be sacrificed in situations where their realization would require modifying local social and cultural patterns. [...] Unquestioning deference to Middle Eastern governments that insist that the international community tolerate those governments' discrimination against women constitutes a misguided application of cultural relativism.¹⁰

10 Ann Elizabeth Mayer, "Cultural Particularism as a Bar to Women's Rights: Reflections on the Middle Eastern Experience", *Women Living Under Muslim Laws, Dossier No. 16*, p. 23 and p. 25.

The following (representative rather than exhaustive) list reflects some of the failings in law or the practices through which women are specifically disadvantaged or their rights are violated.

Acquisition, ownership and sale of land and/or property

- In Uganda, "women make up over 80 per cent of the agricultural labour force, but owing to a combination of customary law, Islamic law and statutory law only seven per cent of women own land."¹¹

Marriage

- Under a local tradition in Kenya, when a woman's husband dies, she must marry a member of her husband's family (e.g., brother-in-law, uncle).¹²
- In southern Zambia, women have called for the end of *lobola* (bride price) because "the payment of a lot of money to the women's parents resulted in women being enslaved by their husbands."¹³
- In a number of countries, the age of consent for marriage remains lower for women than for men.
- There remain laws allowing men to practice polygamy while forbidding women to do so.

11 Radhika Coomaraswamy, UN Special Rapporteur on Violence Against Women, in her report on cultural practices in the family that are violent towards women, E/CN.4/2002/83, para. 68.

12 "Kenya widows with HIV reject forced remarriage," *Newsheet*, Vol. XIII, No. 3 (August 2001), p. 21, published by Women Living Under Muslim Laws, citing an article in the May 6, 2001 edition of *The Nation*.

13 "Women demand end to bride price," *Ibid.*, p. 24, citing an article in *Off our backs*, March 2001.

- In some countries, consent to marriage remains the prerogative of a male relative and not of the girl or woman who is to be married.

Divorce

- In Uzbekistan, the law provides an equal guarantee for women and men of access to divorce. There is a perception by the courts, however, that their function is the “preservation of families.” This was particularly apparent in 1998, the year designated by the government as the “Year of the Family.” In one case, despite having produced evidence of recurring abuse by her husband, a woman with two children was denied divorce. “After two years and three separate court hearings she abandoned her efforts” and remained married.¹⁴
- In Israel, divorce may be granted in civil court. Orthodox Jewish women, however, are also subject to the *get*, a religious divorce. If a husband refuses to agree to a *get*, an Orthodox Jewish woman “cannot remarry in a synagogue and any descendants from a second marriage are considered illegitimate for ten generations.”¹⁵ This rule does not apply to men, who are not seen as adulterers if they remarry.

“Honour” crimes

- Partial or complete “honour” defences remain in the Penal Codes in a number of countries, including Peru, Bangladesh, Argentina, Ecuador, Egypt, Guatemala, Iran, Israel, Jordan, Syria, Lebanon, Turkey, the West Bank and Venezuela.¹⁶

14 *Sacrificing Women to Save the Family? Domestic Violence in Uzbekistan*, Human Rights Watch, Vol. 14, No. 4 (D), July 2001, p. 29.

15 “Jewish women protest against marriage law,” *Newsheet*, Vol. XIII, No. 4 (December 2001), p. 33, published by Women Living Under Muslim Law, citing an article in the July 26, 2001 edition of *The Independent* (U.K).

16 Coomaraswamy, para. 35.

- While the defence of honour is not permitted, *per se*, under the law in a number of Western countries, there remains a tendency on the part of some members of the police, of prosecutors and of judges to accept the defence of “provocation.” By this reasoning, the woman is, essentially, the cause of her own demise because of “provocative” behaviour of one kind or another. While the defence does not necessarily lead to acquittal in cases of marital rape or spouse murder it does produce reduced sentences. In October 1999, a judge in Texas (United States) sentenced a husband to four months in prison “for murdering his wife and wounding her long-time lover in front of their 10-year-old son.”¹⁷

Rape

- The Penal Codes of Costa Rica, Ethiopia, Lebanon, Peru and Uruguay all have provisions under which the perpetrator of a rape will be pardoned if his victim agrees to marry him.

Nationality and citizenship

- In some countries, citizenship may still only be passed on to children through the male line. It was not until 1999 that the U.S. Supreme Court declared a similar law unconstitutional.

Sexual slavery

- In Nepal, the *Children’s Act* prohibits the *Deuki* system under which “girls are offered to deities either by their own families or by rich persons who buy a girl from

17 *Ibid.*

her parents in order to be granted certain wishes or heavenly favours. Such a girl, a *Deuki*, engages in prostitution. “There is a belief that sexual relations with a *Deuki* are auspicious.”¹⁸

- Although prohibited by law since 1998, women remain enslaved in Ghana under *trokosi* (slaves of the gods). The practice is part of “a religious system in which a fetish priest mediates between the gods and the people. Young girls are enslaved to atone for the sins of a male relative.”¹⁹

Family

- In Bangladesh, the *State Acquisition and Tenancy Act 1950* includes a definition of the family under which a daughter establishing a home separate from that of her parents “shall not be considered as the head of her family, whereas a son doing so would automatically become the head of his family.”²⁰

It is important for human rights activists to argue for the provisions of CEDAW to supersede national laws that do not meet even the minimal requirements of the Convention. Meaningful implementation of CEDAW will also require substantial change to a number of cultural norms that are discriminatory towards women.

The Convention, combined with the provisions of other human rights instruments, makes it possible for activists to pressure governments to hold non-state actors account-

able. Governments’ argument that they cannot “interfere” in what they define as “personal matters” is not valid. It is therefore crucial that activists challenge governments with actual facts. The following briefly sets out some of the human rights tools that have proven useful to address such issues as (a) the (mis)use of cultural arguments; (b) the duty of States to hold accountable perpetrators in the “private” sphere; (c) the duty to hold perpetrators belonging to armed groups accountable.

An important aspect of CEDAW is that it specifically highlights culture and tradition as influential forces in society. It acknowledges their impact in shaping gender roles and in restricting women’s enjoyment of rights. Other human rights declarations or recommendations emphasize the same point.

In addition to the UN CEDAW, regional instruments are being developed to address violence against women. One of the best examples of a human rights tool in terms of addressing violence against women is the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (the Convention of Belem do Pará). Costa Rican lawyer Ana Elena Obando pointed out that, “In the Inter-American system, [the Convention] is the first human rights instrument to challenge the distinctions between the private and the public spheres.”

Ana Elena Obando, *States and Corporations: Legal Responsibilities to the People*, WHRNet, 2004, p.4, www.whrnet.org/docs/issue-states_corporations.html.

18 Ibid., para. 41.

19 Ibid., para. 42.

20 Sultana Kamal, *Her Unfearing Mind: Women and Muslim Laws in Bangladesh*, Ain o Salish Kendro, Dhaka, 2001, p. 52.

Reference points for activists are found in the following statement by the CEDAW Committee and article 5 (a) of the Convention:

- CEDAW Committee: Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry death, acid attacks, and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them of equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. (Recommendation 19).
- CEDAW: Calling on States Parties to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

When countering the argument that the State is not responsible for violations of human rights by non-state actors (including in the family), the following points are helpful for activists:

- The 1992 statement by the CEDAW Committee: It is emphasized that discrimination under the Convention is not restricted to action by or on behalf of Governments. (Recommendation 19 on violence against women).
- Provisions in the Convention, including that States Parties should (a) take all appropriate measures to eliminate discrimination against women by any person, organization or

enterprise (article 2 (e)); (b) take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations (article 16.1).

In terms of countering the argument that the State is not responsible for violations of human rights by armed groups, one of the main legal concepts is based on “due diligence.” The principle of due diligence holds that the State has a responsibility to ensure that human rights are respected, including in cases where both perpetrators and victims are non-state actors. Various human rights declarations and treaties refer to this crucial principle.

The Velásquez Rodríguez case

A landmark case relating to the principle of due diligence was heard in the Inter-American Court of Human Rights. Angel Manfredo Velásquez Rodríguez, also known as Manfredo Velásquez, was a student who was involved in activities the authorities considered “dangerous” to national security. He was kidnapped in broad daylight by men in civilian clothes who used a vehicle without license plates. The Court found, as in other cases, the same type of denials by his captors and the Armed Forces, the same omissions of the latter and of the government in investigating and revealing his whereabouts. The Court also found the same ineffectiveness of the courts where three writs of *habeas corpus* and two criminal complaints had been brought. The following facts were considered by the Court to have been proven: (a) a practice of disappearances carried out *or tolerated by Honduran officials* existed between 1981 and 1984; (b) Manfredo Velásquez disappeared at the hands of *or with the acquiescence of officials* within the framework of that practice; and (c) the *government had failed* to guarantee the human rights affected by that practice.

The Court stated:

Thus, in principle, any violation of rights recognized by the Convention carried out by an act of public authority or by persons who use their position of authority is imputable to the State. However, this does not define all the circumstances in which a State is obligated to prevent, investigate and punish human rights violations, nor all the cases in which the State might be found responsible for an infringement of those rights. An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention [the American Convention on Human Rights].

Inter-American Court of Human Rights, Velásquez Rodríguez Case, Judgment of July 29, 1988 para. 172.

Amnesty International highlighted the importance of this legal principle in its *Stop Violence Against Women* campaign. The organization stated:

The general principle of state responsibility requires that when states know, or ought to know, about abuses of human rights, and fail to act to take appropriate steps to prevent the violations, then they bear responsibility of the action. [...] Exercising due diligence includes taking effective steps to prevent abuses, to investigate them when they occur, to prosecute the alleged perpetrators and bring them to justice in fair proceedings, and to ensure adequate reparations for the victims, including rehabilitation and redress.²¹

A call to accountability

In 2001, Catholics for a Free Choice (CFFC) launched its *Call to Accountability* campaign, to expose sexual abuse perpetrated by male clergy and to “hold accountable the individuals and institutional leadership involved or complicit in this problem.” The abuses occurred in dozens of countries on all continents. CFFC’s campaign focused on the abuse of nuns by priests, but also dealt with three main forms of abuse: child sexual abuse, sexual exploitation and sexual harassment. The campaign drew from testimonies and academic research, such as a 1996 survey which revealed that a “minimum” of 40 percent of nuns in the United States (or about 34,000 women) had “suffered some form of sexual trauma.”

See John T. Chibnall, Ann Wolf and Paul N. Duckro, “A National Survey of the Sexual Trauma Experiences of Catholic Nuns,” *Review of Religious Research*, Vol. 40, No. 2, December 1998, Saint Louis University, pp.142-167. See also CFFC updated information and briefing papers at www.calltoaccountability.org/

Optional Protocol to CEDAW

The Optional Protocol (the Protocol) to the Convention on the Elimination of Discrimination Against Women was adopted in December 1999 and entered into force in December 2000. The Protocol provides for a complaints procedure through which women may seek remedy for violations of their human rights.

In the preamble to the Protocol, States Parties reaffirm “their determination to ensure the full and equal enjoyment by women of all human rights and fundamental free-

21 Amnesty International, *Making Rights a Reality: Building your Campaign – Stop Violence Against Women*, June 2004, p. 3, available at <http://web.amnesty.org/actforwomen/reports-index-eng>.

doms and to take effective action to prevent violations of these rights and freedoms.” Article 17 provides that no reservations to the Protocol are permitted. A State that has ratified or acceded to the Protocol may not, therefore, establish grounds, situations or laws that, in the view of the authorities, should not be subject to complaints under the Protocol.

States Parties to the Protocol recognize the competence of the Committee on the Elimination of Discrimination against Women to receive and consider communications. Article 2 stipulates that communications

... may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the [CEDAW] Convention by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

Appendix 3 of this manual provides a copy of the form used by the CEDAW Committee for receipt of communications.

Article 5 of the Protocol stipulates that

At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.

Article 6 requires a State against which a complaint has been submitted to the Committee, to provide written explanations or statements clarifying the matter and the remedy, if any, that may have been provided. After examining a communication, the Committee transmits its views on it, together with its recommendations, if any, to the parties concerned. The State is then required to submit to the Committee, within six months, a written response, including information on any action taken in the light of the views and recommendations of the Committee.

Under article 8, if the Committee receives reliable information indicating grave or systematic violations of the rights set out in CEDAW, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. If necessary, the inquiry may include a visit to the State concerned. Article 11 requires the State to “take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill-treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.”

As with the optional protocols to other human rights treaties, the views and recommendations of the CEDAW Committee are not legally binding and there is no direct sanction that the Committee can apply in response to the failure of a State to take the necessary remedial action. This does not mean, however, that the outcome of cases considered under the Protocol have no value. It may well be that the State will take the necessary action to correct a current situation and to prevent future violations. The decisions of the Committee are also widely published and can provide the basis upon which activists may orient their work in the future. It is also possible that the cases will highlight situations which may then be addressed either by individual States

in their bilateral relations, or by other human rights procedures within the UN system, or both.

Other Treaties

In addition to the treaties noted above, there are several others that activists may want to review when dealing with violence perpetrated by non-state actors. These include

- the Convention on the Prevention and Punishment of Genocide (1948);
- the Convention Relative to the Protection of Civilian Persons in Times of War (1949 – the Fourth Geneva Convention);
- the Convention Relating to the Status of Refugees (1951);
- the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1951);
- the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (adopted by the General Assembly in November 2000, not in force at the time this manual was prepared);
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);
- the Convention on the Nationality of Married Women (1958);
- the Convention on the Reduction of Statelessness (1975);

- the Convention relating to the Status of Stateless Persons (1960);
- the Convention relating to the Status of Refugees (1954);
- the Protocol relating to the Status of Refugees (1967).

As well as international treaties, there are regional human rights treaties with key provisions relating to the equality rights of women. These include

- the European Convention for the Protection of Human Rights and Fundamental Freedoms (1953);
- the American Convention on Human Rights (1978);
- the African Charter on Human and People's Rights (1981);
- the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (1995).

As this section on international treaties demonstrates, there are human rights provisions that are relevant to the issue of violence against women and the role non-state actors play in it. It is up to activists to decide whether or not to use the international system. Should they choose to do so, the following chart outlines some issues that can be addressed: (a) the issue; (b) the relevant human rights provision; (c) the source; (d) comments on why and/or how provisions are legally enforceable.

Table 1: Human rights provisions relevant to the issue of violence against women

The issue	Relevant human rights provisions	Source	Legal enforcement
<p>Traditional attitudes which are detrimental to women, and their consequences, (i.e., harmful customary practices, such as female genital mutilation)</p>	<p>Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry death, acid attacks, and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them of equal enjoyment, exercise and knowledge of human rights and fundamental freedoms.</p>	<p>CEDAW Committee, Recommendation 19</p>	<p>States Parties to CEDAW must give due weight to the Committee's recommendations and can be challenged when they do not.</p>
<p>Gender-based violence and sexual exploitation</p>	<p>States Parties should take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices, and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.</p>	<p>CEDAW, article 5 (a)</p>	<p>States Parties have an obligation to ensure that the Convention is fully implemented, subject to any reservations that a State may have entered to it.</p>
<p>Dowry death, "honour" killing, forced confinement or seclusion, etc.</p>	<p>Everyone has the right to life, liberty and security of person.</p>	<p>Universal Declaration of Human Rights (UDHR), article 3; DEVAW, article 3 (a)</p>	<p>The UDHR and DEVAW are part of customary law and entail legal obligations for the State.</p>
<p>Sexual violence</p>	<p>Everyone has the right not to be subjected to torture, or to other cruel, inhuman or degrading treatment or punishment.</p>	<p>UDHR, article 5; DEVAW, article 3 (h)</p>	<p>As above</p>

Table 1: Human rights provisions relevant to the issue of violence against women (continued)

The issue	Relevant human rights provisions	Source	Legal enforcement
Trafficking and forced prostitution	State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.	CEDAW, article 6	As above
Sexual harassment in the workplace	State Parties should take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights.	CEDAW, article 11	As above
HIV/AIDS	States Parties should take all appropriate measures ... to ensure ... access to specific educational information to help ensure the health and well-being of families, including information and advice about family planning.	CEDAW, article 10	As above

Declaration on the Elimination of Violence Against Women

The Declaration on the Elimination of Violence Against Women (DEVAW) was adopted by the UN General Assembly in December 1993. The Declaration establishes that violence against women shall be understood to encompass, but not be limited to violence (a) occurring in the family; (b) occurring in the general community; (c) perpetrated or condoned by the State.

The Declaration is not a legally binding instrument as such but it does clarify the right to equality in the family, including in terms of security of the individual. Article 1 states that “The term ‘violence against women’ means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty in public or *in private life*.” [Emphasis added] Article 2 (a) specifically refers to “physical, sexual and psychological violence occurring in the family.”

Article 4 (c) of the Declaration urges States “to 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.”

From the perspective of women’s rights activists, the broad categories used in DEVAW do not necessarily reflect the full spectrum of violations that women face in different contexts.

Table 2: Categories of violence against women

<p>Violence occurring in the family</p> <p>Physical, sexual and psychological violence, including</p> <ul style="list-style-type: none">• battering• sexual abuse of female children in the household• dowry-related violence• marital rape• female genital mutilation and other traditional practices harmful to women• non-spousal violence• violence related to exploitation
<p>Violence occurring in the general community</p> <p>Physical, sexual and psychological violence, including</p> <ul style="list-style-type: none">• rape• sexual abuse• sexual harassment and intimidation at work, in educational institutions and elsewhere• trafficking in women• forced prostitution
<p>Violence perpetrated or condoned by the State</p> <ul style="list-style-type: none">• Physical, sexual and psychological violence, wherever it may occur

This manual focuses on the first two categories since “violence perpetrated or condoned by the State” does not apply to non-state actors. Also, activists often point to such practices and incidents as incest, virginity tests (enforced by blood relatives or in-laws), enforced heterosexuality, sexual coercion within marriage (including marital rape), enforced impregnation, forced sterilization, or “honour” killing. They distinguish between different categories of sexual violence (e.g., rape in marriage, gang rape, rape by employers, etc.). None of these is explicitly mentioned in

DEVAW, yet they take place on a regular basis throughout the world. Recognizing this fact, the Declaration clearly states that the types of violence noted in the table above do not necessarily represent the entire range of violations of women’s human rights (“not limited to”). It may also be helpful to note that in Recommendation 19, the CEDAW Committee included other instances of violence against women by non-state actors, referring to “widespread practices involving violence and coercion, such as family violence and abuse, forced marriage, dowry death, acid attacks and female circumcision.”

Beijing Declaration and Platform for Action

The Fourth World Conference on Women was held in Beijing in October 1995. The Beijing Declaration and Platform for Action (BDPA) focuses on the human rights of women, including in the areas of violence against women, health, equality and non-discrimination under the law and in practice. The Declaration and Platform also deal with such issues as education and training, women and armed conflict and participation in conflict resolution. Violence against women was identified as one of 12 critical areas of concern that required urgent action. The BDPA urges governments to “take urgent action to combat and eliminate violence against women, which is a human rights violation, resulting from harmful traditional or customary practices, cultural prejudices and extremism.”²²

The Commission on the Status of Women

The Commission on the Status of Women (CSW) was established in 1946 and consists of 32 State members. It reports to the UN Economic and Social Council (ECOSOC) and makes

²² Strategic Objective I.2, Article 232.g.

recommendations on issues related to women's rights. Its tasks are to promote implementation of the principle that women and men have equal rights and to assist in mainstreaming a gender perspective in UN activities. Its focus is on women's rights in the political, economic, social and educational spheres. In 1987, the CSW mandate was expanded to include regular "expert group" meetings. After the 1995 Fourth World Conference on Women, the General Assembly mandated the Commission to regularly review critical areas of concern (the main themes agreed upon in Beijing). The Commission's work remains closely related to the BPFA with the emphasis placed on its effective implementation.

Treaty Bodies and Other Procedures

Committee on the Elimination of Discrimination Against Women

The Committee on the Elimination of Discrimination against Women (the CEDAW Committee) was established in 1982 and consists of 23 experts "of high moral standard and competence in the field." Members are elected for a four-year term. The Committee monitors the implementation of CEDAW and also issues specific recommendations. Recommendations that have a particular importance in relation to non-state actors include the following:

- Recommendation 12 (1989): defining violence against women as a form of discrimination that seriously "inhibits women's ability to enjoy rights and freedom on a basis of equality with men";

- Recommendation 14 (1990): dealing with female genital mutilation and other traditional practices harmful to women;
- Recommendation 18 (1991): acknowledging the "double discrimination linked to [disabled women's] special living conditions"; this Recommendation calls on States to take "special measures" to ensure that such women have "equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life."

Human Rights Committee

The Human Rights Committee monitors implementation of the International Covenant on Civil and Political Rights by States that have either ratified or acceded to this treaty. In 1995, the Committee amended its guidelines for States Parties reporting to it and emphasized the responsibility of States to ensure the protection and promotion of women's human rights. The Committee, made of up to 18 experts, often raises issues of violence against women, including by non-state actors (e.g., trafficking, enforcement of dress codes, marital rape, female genital mutilation). States Parties must now report on "factors affecting the equal enjoyment of rights by women under each article of the Covenant" and include in their reports to the Committee "practical matters concerning equality of status and the human rights of women."²³

23 UN Division for the Advancement of Women (Department of Economic and Social Affairs), *Integrating a gender perspective into UN human rights work*, Women 2000, December 1998, p. 7.

UN Special Rapporteur on Violence Against Women

The mandate of the Special Rapporteur on Violence Against Women, its Causes and Consequences, was established by the Commission on Human Rights in 1994. The mandate allows the Special Rapporteur to monitor and report on the following:

- violence in the family (including domestic violence, traditional practices, infanticide, incest, etc.);
- violence in the community (including rape, sexual assault, sexual harassment, commercialized violence, labour exploitation, etc.);
- violence by the State (including violence in detention and custody, as well as in situations of armed conflict, violence against refugee women).

United Nations World Conferences

The declarations and programmes or platforms for action that have been adopted by States at the various UN conferences and follow-up meetings are not legally binding. Nonetheless, States are expected to fulfil the commitments that were made and to take measures to implement, in full, the outcome documents of these conferences and summits. It should also be noted that the responsibilities of the international community and the UN system are elaborated in these programmes and platforms.

- Nairobi, July 1985: The General Assembly declared 1976 to 1985 as the Decade for Women and highlighted three main goals — equality, development and peace. The Nairobi conference reviewed the progress made and the obstacles encountered during the Decade for Women. *The Forward Looking Strategies* document that was adopted in Nairobi called for improvements in the areas of sexual equality,

women's autonomy and power, recognition of women's unpaid work and advances in women's paid work.

- Vienna, June 1993: At the Vienna World Conference on Human Rights, UN Member States officially recognized women's rights as human rights and stated that gender-based violence is a human rights violation. This significantly expanded the international human rights agenda to include gender-specific violations. The Vienna Declaration and Programme for Action called for the integration of efforts to ensure women's human rights within all UN activities.
- Cairo, September 1994: The Programme of Action adopted at the Conference on Population and Development focused on gender equality, equity and empowerment. It endorsed a new strategy, emphasizing the numerous links between population and development and insisted on meeting the needs of individual women and men rather than on achieving demographic targets. The Programme of Action emphasizes the need for men to take responsibility for their sexual behaviour as well as their shared responsibility for and active involvement in parenthood. The Conference also noted their responsibility in the area of prevention of sexually transmitted diseases, including HIV.
- Copenhagen, March 1995: The World Summit for Social Development examined the issues of poverty and women's economic rights. The Summit considered social development as going beyond the provision of food, shelter, education and health services. Social development was seen to include empowerment and the creation of opportunities for individuals and communities to determine their own lives and well-being.

Security Council Resolution 1325

In addition to the above treaties, political bodies, treaty monitoring bodies and mechanisms, activists may also refer to Security Council Resolution 1325 on Women, Peace and Security. This resolution was adopted in October 2000.

In this resolution, the Security Council

- expressed concern that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements;
- reaffirmed the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts;
- requested that the UN Secretary General provide States with training guidelines and materials on the protection, rights and the particular needs of women, as well as on the importance of involving women in all peace-keeping and peace-building measures;
- called on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia, (a) the special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction; (b) measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements; (c) measures that ensure the protection of and respect

for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary.

The Security Council called upon *all parties* to armed conflict

- to respect fully international law applicable to the rights and protection of women and girls, especially as civilians (e.g., the Geneva Conventions of 1949, the Refugee Convention of 1951 and others);
- to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict;
- to respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls, including in their design.

The Council further

- emphasized the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity and war crimes, including those relating to sexual and other violence against women and girls;
- stressed the need to exclude these crimes, where feasible, from amnesty provisions;
- encouraged all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants and to take into account the needs of their dependants;

- expressed its willingness to ensure that Security Council missions take into account gender considerations and the rights of women, including through consultation with local and international women's groups.

This resolution is important because of its reference to *all parties* to conflict. This clearly means non-state groups directly involved in or supporting the conflict. The references to conditions during the post-conflict period, as well as those in refugee camps and places of temporary shelter for displaced persons, underline the Council's concern about the behaviour of non-state groups and organizations, as well as individuals. These entities include any peacekeeping forces that may be deployed as well as individuals working in UN field operations or as part of international humanitarian and relief operations carried out by non-governmental organizations.

International Criminal Court

The Rome Statute, establishing the International Criminal Court (ICC), was adopted in July 1998. The Statute was ratified by the sixtieth country in April 2002 and the Court was formally established in The Hague. The ICC has the authority to investigate and try individuals accused of the most serious violations of international humanitarian law: war crimes, crimes against humanity and genocide. Crimes committed prior to the establishment of the Court may not be prosecuted. The ICC's stated goal is to end impunity and to prevent and reduce the crimes being committed. Rape that fits certain criteria (such as demonstrating a systematic pattern) is considered as genocide and a crime against humanity. As such, the perpetrators of this crime may be tried by the ICC.

VIOLENCE AGAINST WOMEN BY NON-STATE ACTORS AND HUMAN RIGHTS: FRAMING THE ISSUES

Numerous studies and the testimony of women who have been victims of violence indicate both the high levels of such violence and the fact that only a few women (relatively speaking) use the criminal justice system to obtain justice. The Committee on the Elimination of Discrimination Against Women has stated that an estimated 25 to 30 percent of all women experience domestic violence. Other instances of violence by non-state actors were noted, including genital mutilation, with 130 million female victims worldwide, or trafficking, with at least 4 million women and girls sold into sexual slavery each year. Much of this violence is invisible. In many contexts and settings, non-state actors who perpetrate the violence — deliberately intimidating, attacking or murdering women — enjoy almost complete impunity. The data available on this subject show that the overwhelming majority of offenders are male.

Abuses by non-state actors, which are violations of human rights, include the following:

- Female genital mutilation: in Egypt, FGM affects women in all communities, Muslim and as well as Christian; it is often presented as a religious requirement, although

the practice is virtually unknown in other regions of the world that profess the same faith;²⁴

- Acid throwing and murders: in Bangladesh the attacks are perpetrated either by young men whose sexual advances or marriage offers have been rejected by the victims (often very young women), or by male family members;
- *Fatwas* against women: this practice is linked to the wider process of “Islamization” of Muslim communities; the concern arises from the increasing role of informal bodies (such as village councils, or *salish*) and religious actors (such as local imams) in the use of *fatwas*;²⁵
- Incest: a widespread phenomena of rape with the aggressors most frequently being the father, then a brother or a stepfather;
- Sexual violence in public spaces: for example, the targeting for violent attacks (sexual assault, harassment, rape, forced FGM) of women from one religious community by members of another; in the Muslim context, attacks on women who are considered to be inappro-

24 Rehana Ghadially offers a concise definition of various forms of FGM, stating: “Some divide the practice into three and some into four types. The first, and the least severe type, is called ritualistic circumcision, where the clitoris is merely nicked. The second form is called circumcision, or sunna. This involves the removal of the clitoral prepuce (the outer layer of skin over the clitoris, sometimes called the “hood”); the gland and the body of the clitoris remain intact. Clitoridectomy or excision, a third variety involves removal of the entire clitoris and most of the adjacent parts. Lastly, infibulation or pharaonic circumcision includes clitoridectomy and sewing of the vulva.” See Rehana Ghadially, “All for ‘Izzat’ – The Practice of Female Circumcision among Bohra Muslims in India,” *Women Living Under Muslim Laws, Dossier No. 16*, 1996, pp. 13-20.

25 *Fatwas* penalize women with stoning, flogging or social boycott and have appropriated the right of judicial punishment and contravened the customary practice of *salish*, a form of mediation. A *fatwa* is a non-binding formal opinion given by a competent legal scholar, consulted on a specific point of law. In recent years, *fatwas* have been used by certain forces for the benefit of their political agenda and to the detriment of women. See Ain O Salish Kendra, “So, what is a Fatwa?” *Fatwas Against Women in Bangladesh*, Women Living Under Muslim Laws, 1996, p. 11.

priately dressed, on the basis that they are violating Muslim identity;

- Forced marriages: this involves the abduction and sale of young women originally from, for example, North Africa for the purpose of forced marriage in Europe (e.g., France and the U.K.);
- Widowhood practices: such practices included forcing the widow to drink the water that the body of her deceased husband was washed in, leading to health complications (*Ilepa*); the confinement of a widow in her husband’s house until the mourning period is over, with restrictions on how she may clean, dress and feed herself; forcing a widow to submit to rape by priests (*aja ani*); depriving a widow of assets and sharing them among the husband’s relatives;
- Social pressure: manifested through forced segregation, forced seclusion, control of mobility, imposition of dress codes; also, public condemnation of individuals whose behaviour is labelled “inappropriate” by community members; verbal abuse or threats by extremist religious leaders against women in public spaces;
- Verbal and sexual assault in public spaces: loud bawdy language regarding the female body, hair or clothing, ogling and loud noises, and touching, pinching or poking the most private parts;
- Domestic violence: in some countries, this is categorized by police as “a family dispute,” a euphemism for wife beating; in many countries only a relatively small number of these cases brought to the attention of the police are actually handled in the judicial system;
- “Honour” killings: the perpetrators are overwhelmingly relatives; in Pakistan, such killings are known as

karo-kari in the provinces of Sindh and Baluchistan and a recent trend involves people outside the immediate family declaring, for example, the female victim “*kari*” and killing her without her father’s consent;

- HIV-AIDS prevalence: this is the result of culturally enforced norms that prevent women from negotiating sexual relationships; forced and early marriages are an additional factor, with the practice of marrying young virgins to older (already infected) men;
- Economic rights: in some cases, widows are thrown out of their family homes after the death of their husbands by sons who inherit and sell the properties; such practices are often justified by customary laws.

These forms of violations may present regional or cultural specificities. A common feature of them, however, is their link to the issue of sexuality. Perpetrators often argue that their crimes are motivated by jealousy or by their inheent responsibility (as head of the family or as leader of the community) to ensure women’s proper behaviour and uphold “morality.” These forms of violence against women by non-state actors are regularly justified by the supposed need to control women’s sexuality. Or, as in the case of forced prostitution and trafficking, the motivation is to use women’s sexuality as a commodity.

Women should wear purdah [veiling] to ensure that innocent men are not unnecessarily forced into becoming rapists. If women do not want to fall prey to such men they should take the necessary precautions instead of forever blaming men.

Comment by a member of the Malaysian Parliament during a 1989 debate on the reform of rape laws.

Violence Against Women During Times of War and Conflict

In situations involving armed groups within conflict zones, the distinction between State and non-state actors is not always as clear-cut as it seems. There are situations where the State uses non-state actors to commit human rights violations. There are also situations in which factions that challenge State authority create their own parallel judicial, police and other structures. These resemble State structures in terms of their well established, long-standing (if not semi-permanent) character, as well as in terms of their impact on regulating people’s lives.

In any situation of internal or transborder conflict, civilians are often the victims of indiscriminate attacks; they may also be deliberately targeted as members of a specific ethnic or religious group involved in the conflict. In a number of instances, attacks on civilians have become a strategy of war, with non-state actors involved in systematic humiliation and harassment, sexual violence, mutilations, extra-judicial executions, forced disappearances or torture. The level of violence specifically directed at women increases in such situations and they are the victims of violence by non-state actors from within the family and immediate community, as well as from State and non-state actors engaged in armed operations. Women also constitute the majority of people displaced by conflicts.

Various militarized factions involved in conflict also specifically target women. Some (such as divorced or single women, women engaged in prostitution, lesbian or transsexual women) are more at risk — especially when non-state actors seek to prove their effectiveness at eliminating

“undesirable” members of the community. Displaced women are also vulnerable to attacks in refugee camps.

In many countries that have suffered violent conflict, the rates of interpersonal violence remain high even after the cessation of hostilities — among other reasons because of the way violence has become more socially acceptable and the availability of weapons.

Observation by the World Health Organization (WHO)

The scope of sexual violence in situations of conflict includes the following:

- systematic campaigns of rape and forced impregnation of women and adolescents girls by armed groups (e.g., in Algeria, “fundamentalist” armed groups), leading to suicides by survivors or social rejection because of the shame that raped or pregnant women allegedly bring to their families;
- widespread sexual crimes including rape and genital mutilation as part of terror tactics against civilian communities (e.g., Colombia); in some cases, women may be targeted because they challenge the authority of armed groups or are seen as the means by which to inflict humiliation on the enemy;
- the targeting of women, as part of a conscious strategy to terrorize the “opposing community” (e.g., Gujarat, Rwanda) through such violence as mutilations and gang rapes.

HUMAN RIGHTS CONCEPTS AND THE HUMAN RIGHTS FRAMEWORK AS CRUCIAL TOOLS TO ADDRESS VIOLENCE AGAINST WOMEN BY NON-STATE ACTORS

When there are abuses by non-state actors, women’s rights advocates can refer to human rights principles in their non-legal activist work or decide to act within the formal framework of human rights law. Strategies may include (a) formal legal approaches, including a legal analysis of the liability of non-state actors in the formal law system (lawsuits, lobby for changes in laws); (b) such non-legal approaches as using human rights concepts and ideas outside the legal system (e.g., citizens’ tribunals, petition campaigns, documenting and exposing abuses in reports).

A combination of strategies (for example, achieving legal change nationally or bringing awareness locally) is crucial to affect change because the different spheres in which activists operate are inter-related and interdependent. International human rights law is an effective framework to address violence against women. Women’s global movements have made substantial advances by using the international human rights system or human rights ideas in their local or national campaigns.

These gains include

- establishing the link between women, violence and legal rights, creating opportunities to claim rights of equality and non-discrimination as women, as part of a wider framework of rights that apply to all human beings;
- defining everyday violence against women as human rights violations, meaning that instances of violence (often excused as “normal”) are defined as incidents that are not legally permissible and are subject to prosecution;
- establishing the basis on which discriminatory practices can be challenged and, by association, increasing the understanding of power structures within societies (i.e., what allows patriarchal religious or cultural traditions to prevail);
- establishing the potential for the human rights approach to be used by various movements, making women’s struggles to end violence a part of a wider project, which involve not only women but other groups discriminated against (viz., ending violence against women is no longer solely a “women’s issue”);
- increasing the potential for perpetrators (including non-state actors) to be held accountable for their actions.

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

Vienna Declaration and Programme of Action, para. I.5.

Changes in Tradition and Culture

Traditions and cultural practices adapt, disappear, are revived or are imported from one region to another — for good and for bad. The following examples illustrate this point.

- Cultural practices *adapt*: There are about 130 million women and girls worldwide who undergo FGM, mostly in Africa. Many activists reject the medicalization of the practice, because it makes FGM more “acceptable” for some people. When unable to eradicate the practice, activists have promoted milder forms of FGM or ceremonial rites. In other instances, activists have opened safe house and shelters for young women fleeing FGM.²⁶
- Cultural practices *disappear*: In China, foot binding was customary among Chinese women for centuries, spreading from the aristocratic classes to other levels of society.²⁷ Foot binding was banned during the 1911 revolution and the practice had faded out by the end of the 1920s. It is now unknown to younger generations.
- Cultural practices are *revived*: In Europe, the practice of veiling (covering) was limited to conservative Jewish

26 For more information on women’s efforts to fight FGM, see the Research, Action and Information Network for the Bodily Integrity of Women (RAINBO) website: www.rainbo.org. Also see Nahid Toubia and Anika Rahman, *Female Genital Mutilation: A Guide to Laws and Policies Worldwide*, Zed Books: London, 2003.

27 Foot binding (which has been traced back as far as the ninth century) was the painful practice of tightly wrapping the feet of girls aged three to five, with the toes bent under the feet. In some instances, a girl’s feet were as short as three inches (7.5cm). This was considered beautiful. Also, foot binding was believed to make women more sexually attractive, aid good health and fertility, and was a route to upward social mobility. In some regions, the resulting disfigurement of foot binding was a badge of identity separating Han Chinese from lower-status ethnic minorities. In lower classes, there were also “looser” forms of foot binding, which began when girls were older. An estimated 10 percent of girls died in agony from the effects of foot binding, while many women were confined to their homes because they could hardly walk.

and Muslim communities. It is now increasingly common in Muslim migrant communities in France, Germany or the UK, mostly due to its promotion by some religious leaders as a symbol of identity.

- Cultural practices are *imported*: The GIA (Islamic Armed Group) introduced, in Sunni Algeria in the 1990s, the Shia practice of *muta* (marriage contracted for a pre-determined period, from one day to 99 years), which was mostly found in Iran. Adopting *muta* gave a religious justification to male fighters who abducted young women for their sexual fulfilment and to do domestic chores for them.

Traditions are highly sacrosanct and untouchable where women are concerned. Still, I have seen traditions change during my lifetime. The change was so easy and smooth when the men took the initiative. Change, however, requires a lot of pain and hard work when it is initiated by women. A clear example of this, in my own country, the Sudan, is the quick disappearance of face marks (a mutilation women and some men endured because it is considered a sign of beauty to cut longitudinal or horizontal marks on the face of the women; it was also a tribal identification for both men and women). When the men decided that it was a tradition with no value and that they preferred women without face marks, there was a whole new attitude that affected the change. Suddenly love songs were describing a woman with a smooth face and women without face marks having a better chance of getting married. Whether women understood the change in attitude or whether they saw themselves as prettier without the marks did not seem to have any weight in getting rid of the tradition — it was the change in attitude of the men.

Asma Mohamed Abdel Halim, “Tools of Oppression,” in Gender Violence and Women’s Human Rights in Africa, Center for Women’s Global Leadership, New Jersey, 1994, p. 22.

Changes in National Legislation

Formal legal systems evolve to reflect changes in societies. In general, these changes are not for their own sake but are intended to correspond to “new” realities. Among other things, changes in law may define and re-define crime, establish or extend protections, elaborate a charter of rights and freedoms, discontinue outmoded public institutions, create new institutions, and establish health and welfare social safety nets. The following examples highlight several positive changes in legal regimes in recent years:

- Asylum: In 1993, the Canadian government recognized gender-based persecution as a ground for applications for asylum. The change allows, for example, women fleeing FGM or “honour” killings to be considered for asylum. Other governments — including those of Australia, the United States and New Zealand — have also introduced guidelines that take into account gender-based persecutions in asylum proceedings.
- “Honour” killings: In Colombia, through the 1997 enactment of Law 360, the Penal Code was reformed in the area of sexual offences. The phrase “offences to sexual liberty and sexual propriety” was changed to “offences to sexual liberty and human dignity.” The reform increased the punishment for crimes committed against a spouse, partner or ex-partner, or against a person with whom the offender had a child. It also removed the termination of criminal proceedings in a case where the offender marries the victim (of a rape for example).
- Equality before the law: In Morocco, the *Mudawana* (the new family code), was passed in January 2004, with the endorsement of King Mohammed VI. Prior to the change, Moroccan men could verbally divorce their wives at any

time (*talak*), and their decision was legally binding. Under the new law, husbands must go to court to make their repudiation binding and women are no longer legally required to be “obedient” to their husbands. The *Mudawana* takes the *sharia* legal concept of the *wali* (a male guardian who decides the fate of a female relative) and extends it to allow women to appoint themselves their own legal guardian at the age of 18. The law allows polygamy but makes it almost impossible in practice.

- Sexual violence: After lobbying by women’s organizations, a new criminal law was passed in the Philippines in 1997. The new law defines rape as violence against a person and includes oral sex and acts of sexual torture.

Changes in the Human Rights Framework

Since the Universal Declaration of Human Rights was adopted in 1948, States and activists alike have debated and argued about how human rights should be interpreted — individual versus collective, Western versus other, duties versus rights. As a result, the human rights system, intended to ensure the maximum protection and promotion of rights, is in a state of constant evolution. In some instances, the system expands as new needs emerge and, in others, some States focus their efforts on restricting the space in which the system may work.

The Use of Cultural Relativism

The cultural relativism debate has been going on for more than two decades. The relativism argument, used by both States and non-state actors, is often used to oppose efforts

by women’s rights advocates to secure justice and equality for women. The result — if not the actual aim — of such arguments is to justify violence against women and other less privileged groups in the name of cultural values. Several of the main arguments of proponents of the cultural relativist approach are outlined below.

Some governments refuse to address discriminatory practices, or to modify discriminatory legislation to ensure that it reflects universal rights as guaranteed in the Universal Declaration of Human Rights. They argue that there is no single set of standards that can apply to all. Their main argument is that, because cultures and traditional practices are diverse, members of specific communities have different rights, which ought to be based on value systems particular to a given region. Thus, relativists promote, for example, respect of “Asian values” or “Islamic values.” In the case of some non-state relativist arguments, human rights are rejected as a direct attack against “God’s law.”

There is also an argument based on equating human rights with an attack on “our” traditions and religion, inevitably leading to a collapse of “our” cultural or religious traditions and, ultimately, of “our” societies. It is not always clear, however, what leaders are talking about when they refer to “our” traditions. Traditions may (a) reflect systems of power within the same country or community, or (b) apply differently to different categories of population. Gender, class, caste, ethnicity, sexuality, ability, knowledge, education, and marital status place individuals within a given social hierarchy, and give — or deny — each person certain privileges. Those enjoying privileged positions in society are likely to want the traditions that provide them with power to remain untouched. Others, in less privileged

positions, likely want those traditions to change. Women, because of their endemic inferior status, often want the traditions that oppress them to be changed or the traditions that are beneficial to them to be respected. The danger in presenting traditions as immutable or fixed is that this approach disguises the fact that traditions are, as a rule, selectively picked to preserve power structures.

Both State and non-state actors promote notions, sometimes conflicting, of cultural identity which fit their political needs. This carefully crafted construction of identity is justified by references to religious or cultural traditions. When women fight for their human rights, they are labelled traitors to their community, religion, or tradition. In fact, women often have no means to challenge the validity of what is imposed on them in the name of, for example, religious traditions.

The fact that Muslim countries have such different policies regarding reproductive rights is in itself enlightening for women. Algeria refused for 20 years to allow knowledge about contraception and abortion; the Algerian government finally changed course on contraception when the population's growth rate reached 3.5 per cent, threatening the ruling class privileges. Tunisia offers both contraception and free abortion services to women. And in Bangladesh there is forced contraception, abortion and sterilization. In all these countries, political leaders pretend to act in conformity with Islam, while they are simply imposing a political solution on their population problems.

Marie Aimée Hélie-Lucas, *Women Living Under Muslim Laws, Ours by Right: Women's Rights as Human Rights*, Joanna Kerr (ed.), Zed Books/The North-South Institute, 1993, pp. 52-64, p. 53.

Cultural relativists also conflate history, religion and culture, using culture and religion to justify violations of women's human rights and to obscure the actual history of certain discriminatory practices. For example, Asma Khader has challenged the myth according to which "honour" killings are in accordance with *sharia* and religious practice. Khader points out that it actually derives from the European criminal code that prevailed 200 years ago.²⁸ This illustrates that the codification of colonial practices (at the expense of indigenous traditions that were in the interest of women) and the presentation of them as "authentic" traditions is another tool used by some of the most vocal cultural relativists to the detriment of women's rights.

[An interesting fact] is that traditions which are favourable to women are eradicated and replaced by practices inherited from colonization. For instance, women in the Arab world used to be called by the name of their father throughout their lives. Recently, legal measures have been introduced which forced women to bear the name of their husbands. This means that in countries with high rates of divorce, and repudiation where women may undergo several marriages in a lifetime, a woman may have to change her name several times, resulting in a loss of identity. This shows that although self-proclaimed "Islamic" states pretend to regain their identity by rejecting all Western elements imposed on them through colonization and imperialism, they do not mind (especially when it comes to women) incorporating Western traditions which deprive women of an element favourable to them in the Arabo-Muslim culture.

Marie Aimée Hélie-Lucas, *Ours by Right: Women's Rights as Human Rights*, p. 54.

28 Asma Khader, in *Crimes Against Women Are Crimes Against Humanity*, report of the panel held in December 1999, Women's Caucus for Gender Justice.

It must be acknowledged that women, whose role in society is often confined to being the “keepers of traditions,” can themselves, at times, justify the need to observe cultural practices that are harmful to other women. For example, while violence against women is overwhelmingly carried out by men, some women are implicated either as instigators or as perpetrators of violence. Often, because these women have internalized social norms whose enforcement is demanded by men, they take part in the violence that occurs in the family. Also, as members of the collectivity, women may be engaged in communal politics and support “their” men who commit sexual violence against “other” women.

The main point here is that hypocrisy and double standards affect the ways in which culture, tradition, religion and social norms are defined and used. Relativists (both State and non-state) take advantage of culture to tolerate discrimination, violence and violations of women’s human rights.

Another variation of relativism is found in the rejection, by some extremist religious forces, of human rights principles. They argue that these principles and rights are man-made and that only “God’s laws,” which only *they* can interpret, should be followed. In many cases, these forces manipulate religious identities and interpret “God’s will” to preserve their own power and to dismiss women’s rights.

As a result of her work, theologian Siti Musdah Mulia became a target of conservative religious leaders in Indonesia. Musdah focused her efforts on formulating “Islamic teachings that are more friendly to women” and to “accommodate contemporary issues” from within a religious framework. She insisted that “religion demands people to use their reason.” In response to being labelled “a tool for Western concepts,” Musdah stated that “the concept of equality, frater-

nity and equality must not be claimed as Western values, and Muslims must not think of it as Western related. It’s a universal value. And those concepts were already practiced ideally in the period of Prophet Muhammad in the seventh century. *Sharia* must be based on the Islamic principles, and it has to constantly accommodate those universal principles.”²⁹

Faced with the cultural relativists’ arguments, one option for women is to reclaim the traditions that are positive toward women from within their own cultures.

Nigeria: fighting domestic violence

An Igbo tradition, used in Eastern Nigeria prior to colonization, helped address various community issues — including wife battering. Women gathered in large numbers at the home of the victim to confront her husband. This public confrontation shifted the “shame” from the abused to the batterer. “The village’s wives association provided a very effective, clear-cut and authoritative organization in which all the wives were involved. [...] The association intervened in marital disputes. It could mobilize effectively against a defaulting husband through ridicule and the process of ‘sitting on a man’, whereby the women sat outside the man’s compound singing abusing songs and refusing to leave until he meets their demands. Besides sanctions directed at individual men (and women), the association could also apply collective sanctions against the male community, such as threatening to leave the village en masse, refusing to cook, or refusal to intercourse.”

Nina E. Mba, “Heroines of the Women’s War,” in Bolanie Awe (ed.), *Nigerian Women in Historical Perspective*, Sankore/Bookcraft, Ibadan, Nigeria, 1992, p. 76.

29 Hera Diani, “Gender expert Musdah speaks within reason,” *The Jakarta Post*, October 3, 2004. Ms. Siti Musdah Mulia is the Secretary General of the Indonesian Conference on Religion and Peace and director of the Religion and Gender Evaluation Institute.

To counter the myth that human rights principles are foreign to societies outside the Western world, it is crucial to research strategies designed by women in different communities to confront violence against women and to assert women's rights. It is also important to document the work of feminist figures within the relevant tradition. For example, the WLUML network has compiled examples of women's rights advocates in the Muslim world, ranging from the eighth to the twentieth centuries. The examples refer not only to well-known women but also those whose work and lives have been erased from mainstream history. This is to affirm that, as in other regions, feminism in Muslim societies is a reality, which can be reclaimed both historically and currently, worldwide as well as locally, universally and in terms of specific areas of activities.

In addition to arguments based on cultural relativism, opponents of the protection and promotion of women's human rights often denounce human rights because, they say, these principles privilege individual members of a community, rather than the community as a whole. The rights of an individual are seen as antagonistic to the rights of a woman's (or women's) community.

This argument seeks to establish a (false) dichotomy between women and their communities, as if women exist outside the collective space. It also ignores that living free of violence is not a privilege but a universal right and cannot be negotiated for the alleged benefit of the community.

Jordan: letting men get away with murder to strengthen the social fabric

In September 2003, the Jordanian Parliament rejected a proposed law to introduce harsher legal penalties for perpetrators of "honour" killings. Despite a sustained campaign to secure more severe punishment for men who kill their female relatives, 60 out of 85 MPs argued that this would ultimately "destroy social values, violate religious traditions and generally damage the fabric of Jordan's society."

Shirkat Gah, *Great Ancestors: Women Asserting Rights in Muslim Contexts*, Women Living Under Muslim Laws, December 2004.

Another strategy employed by opponents of women's human rights is to characterize those rights as a "racist" tool, devised by the West. They point to the fact that certain customary practices (e.g., FGM, stoning) are defined as "backward" or "barbarian." It is important for activists, therefore, to insist on the fact that all people are born equal and should enjoy a life free of violence, no matter where they are born. For example, women's reproductive rights are a contentious issue throughout the world. Abortion is a particularly sensitive issue. Conservative African American groups in the United States, for example, portray the right to abortion as a strategy designed by white elites to eradicate black communities. Furthermore, they target African-American women who perform or have abortions, labelling them traitors to their communities.

DOCUMENTATION WORK FROM AN ACTIVIST PERSPECTIVE

The examples set out in this section provide the basis for an exploration of how women are adapting and making use of the human rights framework at the international level, as well as regionally, nationally and locally. Options for activism include (a) lobbying within the UN system (e.g., the Commission on Human Rights); (b) efforts aimed at implementation of CEDAW and treaty-based laws in individual countries; (c) campaigns, based on human rights principles, to raise awareness in local communities or to gather wider support for the cause; (d) actions on behalf of individuals whose human rights are being or have been violated. The examples also demonstrate the different strategies used by activists. Each strategy requires specific knowledge — e.g., of the relevant legal system, an understanding of local conditions, of what is likely to be effective in a given community. These different approaches are not only possible but essential to achieve substantive changes in how to address and deal with violence against women.

Acknowledgment of the diverse and complementary approaches underscores that there are contexts where political circumstances make it difficult to approach issues from a human rights perspective. It also recognizes women's resourcefulness in designing various strategies that address violence against women. Finally, it asserts that non-state actors can use human rights in flexible ways to respond to and deal with violations.

The human rights framework assists our work. It gives us a set of principles to act upon. Our work informs the human rights framework internationally and we are in turn informed by it, in the cases we bring to the courts, when using CEDAW or other human rights tools. It is a two-way street.

Gita Sahgal, Head of the Gender Unit, Amnesty International, oral presentation, Raising Standards to Tackle Violence against Black and Minority Women, national conference organized by Southall Black Sisters, London, November 15, 2004.

The “two-way street” Sahgal described is only effective, however, when activists are familiar with their domestic legal system (the laws in their own country) and are also aware of which international human rights instrument their government has ratified. This knowledge is the basis on which to remind and pressure States to respect their obligations, including in areas in which non-state actors must be held accountable for their actions. Thus, activists work towards holding their own governments accountable for violations committed by the State, while at the same time insisting that the State hold others accountable under the human rights system.

As the International Council on Human Rights Policy has noted:

This often involves a long process of lobbying, signature and ratification of specific treaties by a government. Then, the bigger challenge usually lies with the process which requires that states ensure that the provisions of treaties are incorporated into national law and practice. There is also the question of access to justice and redress which underpin all such processes.³⁰

The issue of access to justice was also addressed

- in article 4 (d) of DEVAW, which states that “Women who are subject to violence should be provided with access to justice and effective remedies for the harm suffered”;
- by Radhika Commaraswamy, former UN Special Rapporteur on Violence Against Women, its Causes and Consequences, who noted the need for governments to provide women with information on their rights and who stated in 1996 that “Recognizing that women and girls often do not report the violence that is perpetrated against them because they do not understand that they are victims of, rather than participants in, the violence, states should undertake legal literacy campaigns to inform women of their legal rights and educate them specifically about domestic violence.”³¹

The Use of Different Strategies to Achieve Common Goals

Violence against women by non-state actors takes many forms, all of them equally unacceptable. This means that campaigners could potentially tackle a whole range of issues. There are a few basic questions that need to be answered before crucial decisions can be made about the

30 International Council on Human Rights Policy, *Enhancing access to human rights*, March 2004, www.ichrp.org. The ICHRP’s project report lists women among the “large groups [who] tend to suffer from lack of access to a marked degree.” The report also states that “the causes of lack of access are manifold and they often overlap and mutually reinforce each other.” It identifies such obstacles, to enjoyment of human rights as “limits of law, institutional obstacles, social attitudes, isolation and physical access.”

31 Radhika Coomaraswamy, Report to the Commission on Human Rights, E/CN.4/1996/53, February 6, 1996, paragraph 142 (g).

best possible strategy to pursue. It is important to be clear about (a) the problem that needs to be addressed; (b) the goal to be achieved; (c) the level at which to make an intervention so that it can be most effective. The overall objective(s) can be either broad or narrow.

Four questions can serve as the basic starting point when devising a strategy:

- Which problem is the most prevalent in the society?
- Is there a single strategy that makes it possible to address several issues (e.g., lobbying the government to pass legislation outlawing discrimination on the basis of sex, or to ratify CEDAW)?
- Will there be support for the initiative from other organizations (e.g., human rights and/or women's groups)?
- What are the potential or likely obstacles? From what or whom do they originate? Is there a way to overcome them?

In cases where there is a specific issued-based focus, helpful questions to consider include the following:

- Are there the necessary skills and contacts to lobby the UN system? If so, how will this be done?
- Is there a possibility of contributing to the efforts of another organization that is lobbying within the UN system (e.g., by giving evidence, providing data)?
- Is there an intention to pursue a legal case that, if successful, would create a precedent that could help other women in a similar situation?

- Is there potential to launch a campaign (a) at the regional level, strategizing with women's groups to address an issue affecting the whole region (e.g., trafficking or sexual violence in conflict); (b) at the national level (gathering signatures for a petition to the government); (c) engaging with the media (sensitizing journalists to a specific issue affecting women, developing media contacts to ensure that an organization or individual is able to publish articles related to women's human rights)?
- Are human rights education activities such as the following a viable option: (a) contacting primary schools or other educational institutions to offer human rights training to staff and pupils; (b) conducting awareness-raising sessions aimed at specific groups of women (e.g., employment rights with domestic workers, reproductive rights with teenagers at risk of early marriage, rights within the family to housewives and homemakers, etc.); (c) conducting awareness-raising sessions for male community leaders in a certain area?

If the decision is made to undertake multiple strategies, several elements are required:

- *proven* facts about violence against women on which the case can be based;
- for strategies involving the UN or the local legal system(s), the use of data that are acceptable to the courts or UN bodies (involving either the use of existing data or collecting new or additional evidence, viz., documentation work);
- when engaging in documentation, a process through which women's rights advocates can assess how this serves their purpose locally.

It should be noted that the process of collecting data and evidence that are of an acceptable international standard (i.e., suitable for lobbying at the UN level) is both labour-intensive and time-consuming. For this reason, some activists remain reluctant to pursue this course and undertake this necessary work.

Ayesha Imam and Nira Yuval Davis ask: [...] how much activists need to invest in working with the United Nations and other international human rights organizations. These are important forums, but it is also important not to fall into the habit of producing documentation for its own sake, as a sort of fetish rather than a guide to action, nor to let such activities suck in all the energies of grass-roots movements.

Ayesha Imam and Nira Yuval-Davis (eds), Introduction, *Warning Signs of Fundamentalisms, Women Living Under Muslim Laws*, December 2004.

Two other points should also be borne in mind. First, strategies should not be seen as fragmented or as operating in isolation. It is true that there is no guarantee of success, whatever approach is taken. Yet, making use of the UN system is always linked to the goal of improving women's lives. Therefore, strategies pursued at the international, national or local levels are always linked — even though they place different types of demands on activists.

Second, different strategies should not be seen as opposite or contradictory, but as complementary. This is true when discussing women's human rights generally, as well as when considering specific issues. Advocates from different regions, gathered in 1999 to address "honour" crimes, came to the same conclusion:

Violations such as "honour" crimes' press us to reflect on the limitations of "standard" (international human rights law-based) human rights activism as an approach to addressing them. The human rights approach needs to supplement rather than undermine other approaches and to recognise the need for (and the validity of) complementary approaches. A critical re-examination of existing approaches would mean, at the very least, recognizing that certain principles (such as the rights to sexual autonomy or the choice of a partner or lifestyle) may be new to many of the societies in which activists work. Denying such social realities could undermine the potential effectiveness of both human rights and women's organizations.³²

In addition to complementary strategies, activists can also combine different approaches and intervene at various levels. An example of a multi-faceted campaign is one undertaken in Jordan against "honour" crimes. Activists specifically worked for the repeal of two articles in the Penal Code — article 340 (exempting perpetrators from prosecution) and article 98 (reduction of sentences for perpetrators). The multiple strategies used included (a) ensuring coverage of the issue in the national press; (b) actions to involve communities and civil society as a whole — e.g., collection of 13,000 signatures calling for a new bill; (c) public statements by religious leaders, including from influential clerics denouncing such crimes as un-Islamic; (d) efforts to involve people who could influence public opinion.

32 CIMEL/Interights, *Roundtable on Strategies to Address 'Crimes of Honour' — Summary Report*, *Women Living Under Muslim Laws*, Occasional Paper No. 12, November 2001, p. 22.

While progress at the national level has been slow, Jordanian advocates joined others from different regions who had been lobbying the UN since 1998 on the issue of “honour” crimes. At its 2004 session, the General Assembly finally adopted a resolution (A/RES/59/165) entitled “Working towards the elimination of crimes against women and girls committed in the name of honour.” This success highlights the benefits of international networking. It also draws the links between how the UN system is informed by local realities and how, in turn, local contexts can be positively affected by both international human rights instruments and decisions taken by international bodies.

The Impact of Diversity of Contexts and Political Approaches When Choosing Strategies

Experience shows that concepts, approaches or strategies can usually be borrowed from anywhere and can also inspire activists in other settings. Activists with a sound knowledge of the beneficial and obstructive factors at work in a specific situation are best placed to adapt strategies successfully. The importance of local contexts in terms of designing appropriate strategies cannot be underestimated. Indeed, different women’s groups operating in the same context may choose different approaches, depending on their means, constituency, political aims, and so on.

In various contexts, some activists may feel that the situation is not conducive to a rights-based approach, fearing that any such demand would inevitably fail, or cause a serious backlash.

As a basic starting point, the following are some of the questions to be considered when determining which strategy is likely to be most effective:

- What do the Constitution and criminal and civil law provide for in terms of citizens’ rights?
- Is there constitutional recognition of religious laws or does the Constitution have a secular basis?
- How are minority rights spelled out?
- What are the specific provisions in national legislation to address violence against women?
- What is lacking in national legislation in this area?
- If the Constitution guarantees gender equality, are there laws contradicting this provision?
- Is knowledge of basic human rights widespread or limited to an elite?
- Is there acceptance of or opposition to using a human rights framework?
- Is there a tradition of women’s activism — e.g., a movement that grew out of an anti-colonial struggle?
- Has the women’s movement gained recognition at the political level?
- Does the movement have a strong mobilizing capacity?
- Are there national networks specifically working on violence against women?
- Are there established links with the international feminist movement and with regional women’s groups upon which local activists can rely?

- Is the current political context favourable or hostile to women’s demands?
- Are there events in the national agenda that women can use to their advantage — e.g., the end of a dictatorship, the end of a conflict, national elections, a government’s report to the CEDAW Committee and so on?
- How much power and influence do religious, traditional and cultural groups have? How do they influence laws and policies in ways that violate women’s human rights?
- Is a backlash to a campaign or initiative likely from any particular sector?
- Is there a danger of co-option of the human rights framework by political movements that could cause the strategy used to be turned upside down?

The strength of the local women’s movement(s) is a key factor in assessing whether or not to make use of human rights arguments, and how. Often, when the women’s human rights movement is still emerging, or where strong links with the international movement(s) are lacking, national efforts can remain focused on issues such as education or health. The public debate is then centered on development issues, with no reference to the principle that women are entitled to enjoy human rights on an equal basis with men. For example, the anti-FGM movement in Africa was split in terms of which strategy to adopt. Many activists avoided addressing the power structures behind the issue, and therefore failed to include FGM within a broader analysis of social inequalities. Others adopted a rights-based approach but were at times left to operate in isolation.

Establishing links with allies in other movements can help to uncover the dynamic of power behind different types of oppression. These links are particularly useful in contexts where violence against women is considered legal or customary (such as in cases of “honour” killing or forced marriages). It is also important to set concrete and achievable objectives and to distinguish between attainable, short-term goals and long-term ones. Local contexts will often determine what is possible, what is appropriate, what is useful and who stands to benefit from a specific strategy.

Collection of Evidence for Documentation Purposes

There are three steps involved in any documentation process: monitoring, documenting and acting. Campaigners or advocates should ask themselves a number of preliminary questions, keeping in mind the fact that documentation work has a political dimension. It is possible that the findings, once made public, will be distorted by others. It is also possible that the documentation produced may inadvertently serve the needs and purposes of others who are not working for improvements in the situation of women.

Several basic issues need to be clarified before undertaking documentation work.

In terms of general aspects, the following questions should be considered:

- What is the purpose of the documentation?
- Who is the intended audience?

- What will the work involve and are the necessary resources available?
- What are the expected outcomes?
- What, if any, are the risks (e.g., potential backlash, manipulation by the media, alienating the local community)?

Documentation for Use at the International Level

The two main avenues for action within the UN system on violations of women’s human rights are the CEDAW Committee, through the Optional Protocol (New York), and the Special Rapporteur on Violence against Women, a special procedures mandate-holder to which cases may be sent. The Human Rights Committee may also prove helpful under the Optional Protocol and the Commission on the Status of Women has a mechanism through which situations and cases may be considered.

Guidelines of the Quick Response Desk

The Quick Response Desk (within the Special Procedures Branch) at the Office of the High Commissioner on Human Rights (OHCHR) processes allegations of human rights violations, particularly, those that are sent to the Special Rapporteurs, Working Groups, Special Representatives of the Secretary General, or Independent Experts.³³

The Quick Response Desk (the Desk) has called on women’s rights activists to contribute to a more effective and gender-sensitive monitoring of women’s human rights viola-

³³ The full texts of thematic reports by special procedures are available on the OHCHR Website at www.ohchr.org/english/bodies/chr/special/gender.htm.

The Quick Response Desk

It is helpful for activists to familiarize themselves with the Desk’s guidelines. The following lists the minimum of information that must be provided for all special procedures in order for the complaint to be assessed:

- identification of the alleged victim(s);
- identification of the alleged perpetrators of the violation;
- identification of the person(s) or organization(s) submitting the communication (this information will be kept confidential);
- the date and place of the incident;
- a detailed description of the circumstances of the incident in which the alleged violation occurred.

Other details pertaining to the specific alleged violation may be required by the relevant thematic mandate (e.g., past and present places of detention of the victim; any medical certificate issued to the victim; identification of witnesses to the alleged violation; any measures undertaken to seek redress locally, etc.).

A complaint can be submitted to the Desk
by fax (+ 41 22 917 90 06),
by e-mail (urgent-action@ohchr.org) or by mail:
OHCHR-UNOG, 8-14 Avenue de la Paix
1211 Geneva 10, Switzerland.

If the communication does not require a rapid response, written complaints can be sent to any of the special procedures. The main expert dealing with violence against women and related issues, however, is the Special Rapporteur on Violence Against Women, its Causes and Consequences. The complaint form used by the Special Rapporteur is included in Appendix 4, or can be downloaded from the OHCHR Website at www.unhchr.ch/html/menu2/7/b/women/womform.htm.

tions through special procedures. It has expressed concern about the gender imbalance in terms of the communications it receives, noting that, in 2004, “Only 10 per cent of the individuals covered by urgent appeals and allegations letters [were] women, and in several cases the sex of the victim(s) [was] not specified.” The Quick Response Desk concluded that “In view of these figures, and sure that we share common views on the importance to report and seek redress for human rights violations affecting women as well as men, [there is a need] to improve the communications’ gender sensitivity.”

Complaints under CEDAW

The CEDAW Committee meets twice a year for three weeks (usually in January and June). It reviews the reports submitted by State Parties. Various guides are available which outline the process of submitting an individual complaint to the CEDAW Committee under the Optional Protocol.³⁴ While the Protocol does not create new rights, it provides a new enforcement mechanism for rights that were and are to be implemented by States as of the date they ratify or accede to CEDAW.

See Appendix 3 for the CEDAW complaint form. The form can also be found on line at www.un.org/womenwatch/daw/cedaw

³⁴ For example, see *A Guide to Reporting Under the Convention on the Elimination of All Forms of Discrimination Against Women*, 2000. This manual is the result of collaboration between the Commonwealth Secretariat and the International Women’s Rights Action Watch (IWRAP). It has been updated by the Women’s Rights Unit of the UN Division for the Advancement of Women.

Complaints to the Human Rights Committee

The Human Rights Committee handles written complaints related to violations of the gender equality provisions of the International Covenant on Civil and Political Rights, (article 26). The individual complaint procedure is set out in the Optional Protocol to the ICCPR and applies only to States that have either ratified or acceded to the Protocol. The communication must be submitted by the alleged victim, or by someone assigned by the victim to act on her behalf. The Committee cannot consider a communication if “the same matter is being examined under another procedure of international investigation or settlement.”

The form for submitting a complaint to the Human Rights Committee can be downloaded at www.unhchr.ch/html/menu6/2/annex1.pdf.

Communications with the Commission on the Status of Women

The Commission on the Status of Women meets twice a year and may receive communications from individuals or groups of individuals concerning discrimination against women. No action is taken, however, on individual complaints.

Information can be sent by mail to the CSW:
Division for the Advancement of Women
Department of Economic and Social Affairs
United Nations Secretariat
2 United Nations Plaza, DC-2/12th Floor
New York, NY 10017
United States

Producing a Shadow Report

States that have ratified or acceded to a human rights treaty have an obligation to report periodically to the relevant treaty monitoring body. When reporting to the CEDAW Committee, many governments tend to paint a positive picture of the situation of women in their countries. NGOs can therefore gather documentation in order to present an independent and accurate description to the Committee. These NGO reports are often called “shadow reports.” While they focus on a State’s success or failure in improving the lives of women — and not on non-state actors — it is possible to address the government’s inability or failure to protect women from violence by non-state actors. Women’s groups often also publish shadow reports as a way to make their findings and recommendations available to a wider audience.

Shadow reports may be submitted to the Committee:
c/o Division for the Advancement of Women
Department of Economic and Social Affairs
United Nations Secretariat
2 United Nations Plaza, DC-2/12th Floor
New York, NY 10017
United States

There are guides to assist activists and to clarify the process of preparing and submitting a shadow report. See, for example:

- (a) Women’s Rights Advocacy Programme of International Human Rights Law Group & the Network of East-West Women, *Shadowing the States — Guidelines for Preparing Shadow Reports as Alternatives to State Reports Under International Human Rights Treaties*, July 1997;
- (b) International Women’s Rights Action Watch (IWRAP), *Producing Shadow Reports to CEDAW: A Procedural Guide*, 2003.

Most national and grassroots women’s NGOs underestimate and under-use their power. International visibility, of organizations and ideas, changes public opinion. [...] [It is crucial] to provide independent information concerning the status of women and the efforts made by ratifying governments to comply with the provisions of CEDAW. [It is equally crucial] to stimulate increased involvement in the reporting and review process by non-governmental groups and individual activists at the national and local levels.

International Women’s Rights Action Watch, IWRAP to CEDAW Country Reports, October 1995.

Documentation at the National Level

The types of information gathered for work at the national level depend on whether the aim is to devise, launch and carry out a campaign or to prepare a legal case. In some instances, the information may be helpful for either or both approaches. In others, specific information and a specific way of presenting it are required.

Information Needed for a Legal Case

The way in which a legal case is prepared will vary, depending on domestic legislation and the type of court system in place. There is basic information, however, that is likely to be required in all cases. As a minimum, the following information should be provided:

- name and personal details of the victim (date and place of birth, citizenship, etc.);
- contact details for the victim;
- specific time and place of the violation or crime;

- people involved (perpetrator, witnesses);
- nature of the crime;
- legal definition of the crime;
- citation of relevant legal provisions (in the domestic system and, if applicable, in human rights treaties);
- medical evidence and/or certificates.

Information Needed for a Campaign

In general, a campaign can be built using less specific data, although some initiatives may require greater detail. While campaigners may choose to highlight one or several specific cases in order to illustrate the nature of human rights violations, they do not need to. A campaign that aims to raise awareness may take as its starting point the simple statement that “there are 200 to 300 documented cases of ‘honour’ killings taking place in [country] every year” or that “domestic violence constitutes 80 percent of all violent crimes committed in [the same country].” It is important to stress, however, that campaigns should be based on verifiable facts and solid research. A reliance on anecdotal or very general information may cause the campaign to lose credibility or inadvertently discredit important issues.

Before a campaign is launched, a number of areas need to be considered, and decisions taken, including (at a minimum):

- Identification of the main problem to be addressed;
- Context in which the campaign will operate:
 - key factors, within the organization and externally, which are likely to affect the overall goal;

- potential allies;
- potential sources of resistance to the campaign and its message(s);
- the persons who or institutions that must be influenced in order for the campaign to succeed;
- Establishment of concrete objectives:
 - legislative change;
 - change in the practices of a given community;
 - the steps needed to reach the overall goal;
 - the time frame for the campaign;
- Identification of a preferred strategy:
 - partners for the campaign;
 - the difficulties likely to be encountered and how to deal with them;
- Design of specific activities (for example):
 - organizing training sessions, meetings, candlelight vigils, demonstrations;
 - producing leaflets or posters;
 - writing and staging street theatre;
 - publishing articles in the written media or launching a radio program, etc.

Once the campaign is over, every effort should be made to evaluate how successful the process was. The questions that should be considered include the following:

- What was positive?
- What was problematic?
- What obstacles were not anticipated and why?
- Was the networking effective and, if so, why?

- Were new allies in the cause developed? If so, what was learned from them?
- Would a future campaign be planned and handled differently on the basis of the knowledge gained?

Choice of Methodology for Documentation Work

General Aspects

Before documentation work begins, a number of points should be borne in mind, including

- having done preparatory work in order to be familiar with the issue to be addressed;
- getting some training in such key areas as how to conduct interviews, legal research or collection of data; a good starting point may be to set up meetings with experienced activists and discuss with them the work that is planned;
- establishing “measurements” that appropriately reflect and take into account women’s specific experiences;
- identifying the sources upon which the campaign or action will rely (interviews, research based on case law, etc.) and how to secure access to them;
- identifying resources needed (human and financial — e.g., the investment of time, the cost of engaging interpreters and securing recording equipment);
- planning logistical arrangements (including alternative arrangements in case the first one does not work out);
- establishing security measures if necessary.

Overall Principles

One of the most challenging aspects of the work for activists is to establish priorities in terms of which cases will be presented, based on their “strategic” importance in a specific context.³⁵ This may mean that an issue of equal importance to others is not brought to the forefront. The choice is a difficult one but any campaign or legal approach cannot be all things to all people all of the time.

The crucial concerns that should be taken into account and that may be used as guidelines when making choices are the following:

- the security of the person giving testimony or the survivor of violence;
- ethical dimensions and respect for the person testifying or the survivor of violence;
- confidentiality;
- accuracy;
- avoidance of sensationalism;
- avoidance of stereotyping;
- the risk of manipulation, especially if dealing with the media, but also manipulation by political forces with different agendas.

35 Much of the information in this section was provided by Professor Lynn Freedman, lawyer and professor of Public Health at Columbia University, as well as a member of the WLUM Core Group.

Table 3: Key considerations

<p>Security</p>	<p>Awareness of security issues is key when documenting human rights violations. A crucial concern is how to protect the victims — and the researchers — from further violence, since retaliation (from the family as well as the community) is common. It is essential to make the best interests of the person abused the priority, and to inform her of the potential dangers she faces if she is testifying.</p>
<p>Ethics and Respect</p>	<p>It is critically important that the process of documentation does not re-victimize individuals. Insensitive or trivial interviewing is to be avoided at all times. It is also crucial to respect the survivor’s wishes, which may not necessarily be consistent with the goal activists have set for themselves. For example, women’s rights advocates may be keen to document a specific instance of violation in order to pursue a legal case because they feel it can advance the overall cause of women’s rights. This may put undue pressure on the victim, however, to support the prosecution or a related process. The fact that a “case” has the potential to bring a landmark judgment, with a positive impact on others, cannot justify making the women behind the case, and their wishes, invisible or irrelevant. Thus, there is a need not only to recognize, but to accept, a victim’s wish not to pursue a legal case.</p>

<p>Confidentiality</p>	<p>Respect for the woman survivor who is willing to meet and speak with researchers about her experience includes very strict standards of confidentiality. Information should not be divulged unless it is necessary for the case to go forward and only after the woman has given her consent.</p>
<p>Sensationalism</p>	<p>Media sensationalism may distract the public and law enforcement officers from focusing on the violations committed. For example, the issues of forced marriages or “honour” crimes were long ignored in Europe but then became “fashionable” topics. While making such crimes visible has been crucial, the way the process has been handled has blurred their actual nature. As a result, there is little, if any, recognition of the fact that forced marriages may involve kidnapping, unlawful imprisonment, assault, rape, and the failure to secure consent on the part of the woman. The sole reference to forced marriages tends to dilute the gravity of the violation and makes it more difficult to prosecute cases on the basis of existing offences. Similarly, “honour” crimes, when they involve killing, must be called murder to emphasize that there are no legal justifications for this practice.</p>

Table 3: Key considerations (continued)

<p>Accuracy</p>	<p>Accuracy is a critical element in documentation work. It is even more so when the victim is not fluent in the language in which her testimony is recorded or if the researcher does not speak her language. It is helpful to arrange for gender-trained interpreters in situations where languages are or become an issue.</p>
<p>Stereotyping</p>	<p>While specific forms of violence may be more prevalent in one community than another, women from all societies experience some kind of gender-specific violence. While domestic violence, for example, always occurs in a specific cultural setting, it is not helpful to equate a one type of violation (e.g., forced marriages or FGM) with a specific community while failing to draw the link with the violence women face everywhere. The failure to draw the link can feed racism or racist tendencies or promote caricature. For example, women from Muslim communities are almost systematically portrayed as submissive, helpless, slaves to oppressive traditions, uneducated or lacking any understanding of their rights. The way Afghan women are regularly depicted (in the media, by politicians, and by well-meaning people, including activists) is thoroughly counterproductive and untrue.</p>

<p>Risk of manipulation</p>	<p>Care should be taken in terms of how the victim and the crime are presented and characterized. Documentation work can assist in developing a legal case, but it is also done in order to pursue other kinds of activist strategies. Activists need to think critically and carefully about the choices they make concerning the portrayal of victims and the crimes against them. Failure to do so may lead to stereotypes of gender, class or race being reinforced. On the other hand, due care in this area can help in the fight against stereotypes.</p>
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As the above demonstrates, documentation work involves a series of decisions, which, ultimately, have political relevance. As Lynn Freedman notes:

The point is that we need to realize that we do make choices when we decide how to pitch a case and therefore have the power to do it in a way that supports our bigger goals. It is therefore important to take into consideration how will the ‘victim’ be portrayed, how her community will be depicted and what is the nature of the crime.³⁶

³⁶ Personal communication with professor Lynn Freedman, lawyer and professor of Public Health at Columbia University, as well as a member of the WLUML Core Group.

Effective Remedial Use of Documented Materials and Evidence

This section provides examples of how activists can and do use documentation and the evidence collected, as a remedy to redress violence against women by non-state actors and for human rights violations at all levels. Examples of both formal human rights approaches and non-legal human rights advocacy are included.

The International Level

It is important at the outset to clarify the issue that is to be addressed, what the goal is and what is entailed in achieving it. It is also important to have at least some idea of who might be allies in the effort and to set concrete and practical goals.

Steps that may be taken in planning the work include:

- Clarifying the commitments the government has made in terms of, for example:
 - core human rights treaties (CEDAW, the Convention against Torture, the International Covenants on civil, cultural, economic, political and social rights, etc.);
 - other international agreements (e.g., the Vienna Declaration and Programme of Action, the Beijing Platform for Action, etc.);
 - regional instruments (African Charter for Women's Rights, Inter-American Convention, etc.);
 - the national legal framework (constitutional provisions, other laws that apply to the issue).

- Getting in touch with women's organizations in the country or region to find out, for example:
 - Has the state/government ratified CEDAW?
 - Were reservations to the Convention files made and, if so, on what grounds?
 - Did the authorities make a commitment to undertake specific actions?
 - If so, was a time frame given for those actions?
 - Has the State/government ratified any regional treaties? If so, which one(s)?
 - Are there other treaties that the State still needs to ratify?
- Checking on the specific commitments the government has made in UN conferences:
 - Which of these commitments are most relevant (e.g., in the areas of violence, armed conflict or human rights)?

The following table was developed by the International Women's Tribune Center. It was developed to help women monitor their governments' progress in terms of the commitments that were made in Beijing. The table can be adapted to the needs of any campaign or legal approach.³⁷ The practical effect of the table is to assist activists in tracking what promises have been made and comparing them with what has been actually implemented.

³⁷ International Women's Tribune Center, *Postview '95*, No. 6, April 1996, p. 9.

Table 4: Tracking promises made by governments

Critical areas of concern	Commitments made by the government and when.	New or further commitments made and when.	Designated person or office responsible?	Allocated resources?	Undertook programme or policy actions?	Established annual benchmarks?	Reached the stated goal?
Violence							
Armed conflict							
Human rights							
Other							

Other steps that may be followed in planning the campaign or other kind of initiative include:

- Linking to the international human rights agenda: being aware of the current issues on the agenda, holding preparatory meetings and discussing designated themes at the national and regional levels;
- Being aware of significant forthcoming events on the human rights agenda (e.g., the review of the Beijing Platform for Action in March 2005, also called Beijing +10);
- Finding out how the organization, association or individuals may participate in such events;
- Finding out when the government is due to report on the implementation of treaties (i.e., to the CEDAW Committee or the Human Rights Committee);
- Finding out what the priority themes are for future sessions of, for example, the CSW.

There are a number of ways activists can use UN institutions to advance their cause. As noted earlier in this manual, activists may choose to involve UN bodies or officials by, among other means, providing general, situational or case-specific information to them (e.g., filing complaints with the relevant treaty body, submitting cases to one or more of the OHCHR special procedures). Organizations may also choose, either alone or with others, to prepare a shadow report to the relevant treaty body (e.g., CEDAW Committee, see above).

In recent years another possibly important channel to the international system of justice has been opened. The International Criminal Court has now been established and is operating. The statute of the Court is specific and does

not include jurisdiction over all the issues concerning women, even in the area of violence against women. There is, however, a fair amount of latitude for the Court to consider cases in which non-state actors are implicated, particularly in the context of armed conflict, genocide and/or crimes against humanity. In addition to international treaties dealing with these types of crimes and selected and specific provisions of human rights treaties, the legal framework for the Court includes provisions in international humanitarian law (the Geneva Conventions, to cite but one source). While the prospect of trying to gather evidence that could be used in a case before the Court may be daunting, it is important for activists to remain open to the possibility of seeking remedy in this forum.³⁸

On the importance of the International Criminal Court, Brigid Inder, Director of the Women's Initiatives for Gender Justice has stated the following:

The ICC provides a unique opportunity for women's movements because it represents a huge leap forward in both International Humanitarian Law, and human rights. For the first time in history, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and other forms of sexual violence have been included in the definition of war crimes and crimes against humanity. This means the legislative and procedural framework for

the ICC recognizes women, it gives visibility to the crimes committed against women during conflict and war, and it has made a commitment to prosecute those responsible. [...]

By implication the jurisprudence of the ICC raises questions about how violence against women during peacetime can continue to be ignored and justified by governments as just another unsolvable issue. It is unclear what relationship the ICC will have with the United Nations Treaty Bodies agencies, including the UN High Commission for Human Rights and Special Rapporteurs, but there may be opportunities for women's organizations and human rights actors to utilize advances in International Humanitarian Law, and human rights norms to explore new answers for old questions.³⁹

To support the ongoing work of women's advocates at the ICC, it is important for activists to ensure that all governments ratify the Rome Statute of the ICC. In countries that have already ratified, activists can work towards national implementation of the ICC in domestic legislation. Each State Party is required to adopt laws that set out how the State is going to implement its obligations under the Statute, especially with regard to upholding the ICC's definitions of genocide, crimes against humanity and war crimes — including sexual violence.

38 Human Rights Watch has compiled a guide for NGOs seeking to collaborate with the ICC with regard to the prosecution of war criminals, *The International Criminal Court: How Non-governmental Organizations Can Contribute to the Prosecution of War Criminals*, September 2004; see especially pp. 14-24. Information designed for women's advocates is also available from Women's Initiatives for Gender Justice (WIGJ). The WIGJ website (www.iccwomen.org) provides information on current campaigns (e.g., on gender parity in terms of ICC staff recruitment) as well as guidelines for and methods to be used when approaching the Court.

39 Brigid Inder, WIGJ, *Interview with the Association for Women's Rights in Development (AWID)*, August 2004, pp. 3-4.

Northern Uganda: the ICC's first case

The first case to be prosecuted by the ICC concerned Uganda. The decision to take the case was based, at least in part, on representations by the Ugandan government related to the conflict in the north of the country that had been going on for 18 years. The following is an example of the strategy that was developed by the WIGJ, in collaboration with ISIS-WICCE and Ugandan women activists. The aim was to ensure that the perspectives and experiences of women in Northern Uganda were included in the Court's consideration of the case.

An eight-member international team conducted a 10-day field mission to Northern Uganda. The main purpose of the mission was

- to meet and consult with those most affected by the conflict, particularly women;
- to hear their views and experiences of the conflict and its impact on their lives and that of their communities;
- to provide local communities with introductory information about the ICC and its functions;
- to hear their views and issues regarding the referral by the Ugandan government concerning the conflict to the Court;
- to hear their views on the priorities and form of "justice."

During the visit, the mission met with women's groups, NGOs, local leaders, and many victims/survivors of the conflict. Visits were also conducted to several camps for internally displaced people, and night shelters. In all, the mission met and consulted with around 500 people, the majority of whom were women.

The visit provided the team with an insight into the complex nature of the conflict in the affected regions. Their findings included the following: (a) the Lord's Resistance Army (LRA) was committing most of the violations and crimes; (b) similar

violations and crimes were being committed by the Ugandan army (the UPDF); (c) there were also violations by the Karamajong raiders, particularly in the northeastern districts of the country. The crimes committed during the conflict, particularly against women, girls and boys included abduction, killing, mutilation, rape, torture, sexual slavery, enslavement and other forms of sexual violence. The conflict had forced more than one million people in the region to live in camps for internally displaced persons.

Most of the women, victims and survivors with whom the team spoke referred to the failure of the Ugandan State and local authorities' to protect and provide them with security as the cause of their suffering. They were of the view that the State should provide them with compensation and allocate the necessary resources for their economic, physical and psychological rehabilitation.

The report drafted by the team after the visit included recommendations addressed to both the Ugandan government and the ICC.

Summary based on a press release issued by Women's Initiatives for Gender Justice, in collaboration with ISIS-WI-CCE and Uganda Women Activists, November 23, 2004. See also Brigid Inder, Justice for Women in Northern Uganda, the International Criminal Court Monitor, April 2005, www.iccnw.org

It is not clear what impact the establishment of the ICC will have on the UN practice of creating special tribunals in certain cases. As of June 2005, there were four such tribunals. Both the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) had prosecuted cases of gender-based violence (e.g., rape). In May 2003, the Trial Chamber of the Special Court for Sierra Leone approved a motion to add a

new count of “forced marriage” to indictments against six defendants. This marked the first time that forced marriage was prosecuted as a crime against humanity. As of the date of writing, the Tribunal that was established to consider cases arising from the genocide committed by the Khmer Rouge in Cambodia had not begun work.

Preparing documentation, a case or cases for such an ad-hoc criminal tribunal may be beyond the reach of many women’s organizations and activists. Information has been compiled by various organizations, however, to assist those who may choose to explore this avenue.⁴⁰

International Human Rights Advocacy

The goal of a number of international campaigns is to bring the concerns of women to the attention of the international community. In the process, they also serve as awareness-raising and mobilizing tools at the regional, national or even local level. A number of approaches have been adopted by activists to achieve this goal.

Campaigns and Tribunals

The “Women’s Rights are Human Rights” campaign (initially co-sponsored by the International Women’s Tribune Centre and the Center for Women’s Global Leadership) is an example of campaigning from the community level up to the international level. The impetus for the campaign was the failure to acknowledge women or to recognize any specific gender aspects of human rights in the UN resolution mandating the holding of a World Conference on Human Rights. The campaign took the form of a petition addressed

40 See, for example Gaëlle Breton-Le Goff and Anne Saris, *Accessing the International Criminal Tribunal for Rwanda (ICTR)*, Rights & Democracy, September 2000.

to the UN World Conference on Human Rights (Vienna, 1993) and called upon the UN to “comprehensively address women’s human rights at every level of its proceedings.” The petition also demanded that “gender violence be recognized as a violation of human rights requiring immediate action.” The petition was translated into 24 languages and sponsored by over 1000 groups. Nearly half a million signatures were gathered from 124 countries all over the world. In addition to signatures, the petition bore the fingerprints of illiterate women. This campaign was a success, since it was instrumental in having the UN define violence against women as a human rights violation. It also provided a tool for women in various contexts to initiate discussions on the issue at local and national levels.⁴¹

Other successful initiatives include women’s international hearings and tribunals, which have been and continue to be organized on every continent. These forums are set up as formal tribunals, although their recommendations (or findings) are symbolic. The format generally includes testimonies by female survivors of violence, or accounts on behalf of a murdered woman, a panel of judges selected on the basis of their expertise on the issue at stake, deliberations and final judgment. Examples of such tribunals are the Lahore Tribunal on Violence Against Women, held from December 1993 to January 1994 as part of a series of tribunals planned in the Asian region by the Asian Women’s Human Rights Council⁴² and the “World Court of Women on US War Crimes” (January 18, 2004) held at the World Social

41 Center for Women’s Global Leadership, *International Campaign for Women’s Human Rights, 1992-1993 Report*, pp. 37-38.

42 Organized by Simorgh Women’s Resource and Publication Center. See Simorgh, *In the Court of Women — The Lahore Tribunal on Violence Against Women 1993-1994, 1995*.

Forum in Mumbai, which included expert testimonies by speakers from the Philippines, Puerto Rico, Iraq, Hawaii, Cuba, Palestine, Croatia and South Africa.

Reparation for “comfort women”

The issue of the so-called “comfort women” gained international attention through the combined efforts of various national women’s organizations and networks such as the Violence Against Women in War Network, Japan (VAWW-NET Japan) and the Women’s Caucus for Gender Justice (now WIGJ).

In 1991, in order to publicize Japan’s regime of enforced prostitution during the Second World War, activists started to collect data about the women victims of sexual slavery. After 50 years of silence, women survivors, in their 70s and 80s, came forward to demand justice and redress. One of the main outcomes of this lengthy and sustained documentation work was the Women’s International War Crimes Tribunal on Japanese Military Sexual Slavery. The Tokyo Tribunal, as it came to be called, was held in December 2000 in Tokyo. The Tribunal was attended by 70 victims and more than 1100 participants. The final judgment was passed in December 2001, at a Women’s International Tribunal held in The Hague, Netherlands. The Japanese government was found guilty of war crimes and crimes against humanity. The “findings” demanded both state reparation for victims and accountability of perpetrators.

Koalisi Perempuan Indonesia, Indonesian Indictment – Judgment of the Women’s International Tribunal, The Hague, December 3, 4, 2001, 48 p. See also Tokyo Tribunal and Comfort Women, Bibliography, Rights & Democracy, 2001, www.dd-rd.ca

Combined efforts from different regions tend to bring about tangible results more often than isolated initiatives. There are, however, contexts in which campaigns may be dismissed as “foreign intervention.” For this reason, when issuing Alerts For Action (publicizing cases that require urgent solidarity), the WLUML network is careful to assess to which audience it should be addressed. In collaboration with activists in the region or community where the situation is occurring, the network tries to determine if launching an international alert will be detrimental to the outcome of the case. State authorities might use the fact of a global campaign as an excuse to ignore the call, arguing that it is interference from “the West” or from non-Muslim countries. In some cases, the network prefers to approach selected allies from a specific region, who carry more weight in the eyes of a given government. Thus, when the risk of a backlash does not endanger an overall campaign, collaborative efforts are often a good strategy to address violations of women’s human rights by non-state actors.

Campaigns on Behalf of an Individual

Campaigns can also aim to support the rights of an individual and to hold non-state actors accountable. There are many types of cases that may be handled. The following two examples, taken from the work of WLUML, illustrate how campaigns may be designed. The second case, though, specifically demonstrates the capacity of organizations to learn and to incorporate the principles of human rights law into their campaigns.

The Akobé case

Eight organizations joined with WLUML to free Véronique Akobé, a 23-year-old woman from Côte d'Ivoire. Akobé was an illegal immigrant and employed as a domestic worker in France. Soon after starting her job, she was raped several times by her employer and his son. In August 1987, she killed the son and wounded the father. Although there was evidence proving that she had been raped, this fact was not taken into account by the lawyers assigned to the case by the Court. In January 1990, Akobé was sentenced to 20 years' imprisonment by the assize court in Nice, France. The campaign on Akobé's behalf

- called for mobilization in the form of rallies in front of French embassies to coincide with a national demonstration in Paris;
- gathered additional petitions after the President of France did not respond to 30,000 signatures that had already been collected and submitted to him;
- emphasized that a presidential pardon should be granted to Akobé and assurances given that she would not be expelled from France;
- affirmed that failure to grant the presidential pardon would imply agreement with a verdict that advocates asserted had been marked by sexism and racism.

In July, 1996, Akobé was granted a presidential pardon. While successful, this campaign was based on the racist and sexist character of the case. There was no reference to human rights principles or to any of the human rights conventions or covenants that France had ratified.

The Yacoub case

A campaign was launched in October 1995 on behalf of Zara Mahamat Yacoub, a female Chadian film director, against whom a *fatwa* had been issued. The facts of this case included the following:

- The *fatwa* was issued after the showing of Yacoub's film "Dilemme au Féminin" ("Feminine Dilemma");
- The Chadian Council of Communication had authorized the showing of the film on television in Chad;
- By order of the High Council of Islamic Affairs and the Imam of the Grand Mosque of Ndjamen, the 15 mosques of the town of Ndjamen cursed, excommunicated and condemned Zara Yacoub in their sermons;
- Zara Yacoub was accused of an offence against the Muslim religion for showing in the film a scene of an excision (the amputation of a female clitoris, and hence nudity), as well as an interview with the Chief Imam;
- In a letter addressed to the Chadian people, an association calling itself the Union of Young Chadian Muslims declared that the film was against good morals, human values and divine law; the Union demanded that severe administrative sanctions be taken against Yacoub, and against the Director of television in Chad.

Yacoub received anonymous telephone calls and death threats; the principal actor in the film, a 10-year-old girl, was also threatened and her schooling interrupted.

The campaign organized by WLUML urged people to pressure the Chadian authorities by

- asking for the annulment of the *fatwa* against Yacoub by the High Council of Islamic Affairs;
- seeking assurance that no sanctions would be taken against her or the authorities of Chadian television;

- requesting official protection for Yacoub, the principal actor and others involved in the film or its broadcast;
- emphasizing that Yacoub had committed no offence and had merely exercised her right to freedom of expression, one of the fundamental human rights recognized by the United Nations and the Constitution of the Republic of Chad;
- pointing out the importance of Yacoub’s work in protecting the rights of young girls and women, in this case in the context of the continued practice of FGM.

In a 1996 letter to WLUMI, Yacoub stated the following:

Your action has been very effective. There was no official reaction but the letters and faxes sent to the Chadian authorities after your call for action led the President of the Republic to tell the imam to calm down and forget this case. I have now stopped taking security precautions and am trying to regain confidence. It is time to say thank you to all the people who have helped.

Research and Networking

A campaign at the international level may involve not only documentation but detective-like work. An example of this type of initiative is the Campaign to Stop Funding Hate. The campaign was launched in November 2002 in the United States by a coalition of people concerned about Hindu extremist right-wing groups based in India acquiring much of their financial resources from Hindu Indians living abroad. The activists tracked down how donations were used for sectarian purposes and uncovered significant financial networks. With that information at hand, the first stage of the campaign, Project Saffron Dollar, was designed to put

an end to the collection of substantial sums of money by an organization called the India Development and Relief Fund (IDRF). The IDRF characterized itself as a non-sectarian, non-political charity that provided funding for development and relief work in India. An independent report documented in detail the connections between the IDRF and extremist groups in India (known as Sangh Parivar).⁴³

As a result of activists exchanging their findings, the documentation work done in the United States encouraged and enabled similar initiatives in Britain. There, a London-based pressure group succeeded in exposing the international character of the problem through an investigation of Hindu organizations based in the U.K. with financial links to the Sangh Parivar in India.

The Sangh Parivar was, through its various front organizations, the main instigator and perpetrator of the killings in Gujarat in 2002 and had systematically incited sexual violence against women of the Muslim community.⁴⁴

The regional level

There is no human rights forum in Asia (commission and/or court). As of the end of December 2005, Africa did not have a regional court on human rights. Activists in Africa and Asia, therefore, must depend upon precedents arising from case law at the national level in which the human rights set out in various international instruments have been cited.

⁴³ The report, entitled “A Foreign Exchange of Hate,” indicated that 82 percent of the funds disbursed at the discretion of IDRF were going to Sangh Parivar organizations. Of the remaining, the majority went to sectarian Hindu charities that may or may not have had a direct Sangh affiliation. Less than five percent of the funds went to agencies that did not have a distinct Hindu-religious identification.

⁴⁴ International Initiative for Justice in Gujarat (IIJ), *Threatened existence: a feminist analysis of the genocide in Gujarat*, Bombay, India, 2003, 244 p., available at www.onlinevolunteers.org/gujarat/reports/ijjg/2003/

In countries where the State has ratified or acceded to all or some of the international human rights treaties, it is important to know the status accorded to them under that State's law and whether they are "self-executing."

With regard to Africa, the following instruments provide a helpful normative framework for activists:

- the African Charter on Human and Peoples' Rights;
- the African Charter on the Rights and Welfare of the Child;
- the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;
- the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

The South African Constitution

The South African Constitution Act No. 108 of 1996 (Section 39 (1) (b) and (c)) specifically provides that when the Bill of Rights is interpreted by a court, tribunal or forum, international law must be considered and foreign law may be considered.

Section 231 (1)(4) of the Constitution provides that "Any international agreement becomes law in the Republic when it is enacted into law by national legislation; but a self-executing provision of an agreement that has been approved by Parliament is law in the Republic unless it is inconsistent with the Constitution or an Act of Parliament."

These and associated instruments for a comprehensive unitary system for the protection of human rights have been developed on the African continent.

Human Rights Advocacy at the Regional Level

Initiatives such as "leadership institutes" have become increasingly popular among women's rights activists. These are often intensive residential summer programmes that aim to foster leadership qualities in women advocates. Many focus on human rights, including documentation, and provide advocacy tools, training, and forums for debate.

One example is the annual African Women's Leadership Institute (AWLI), established in 1996 by Akina Mama Wa Afrika (AmWA), following the Fourth World Conference on Women. An intensive three-week regional residential leadership training institute is convened every year (in addition to sub-regional and national training programmes). The goal of the AWLI is to contribute to the strengthening of the African women's movement. The following is the mission statement of the organization:

The AWLI is a regional networking, information and training forum which trains African women aged 25 to 40 in critical thinking on gender issues, feminist theory and practice, organisational building and resource development. The ultimate goal of the AWLI is to encourage and train significant numbers of women for informed positions that will ultimately promote a progressive African women's development agenda. The development of a feminist constituency among the next generation of African women leaders is essential to the future of the African women's movement.

Human Rights Advocacy at the National Level

Using Existing State Institutions

Many advocates, working in different contexts, have noted that taking legal action (to seek redress for domestic abuse, denial of property rights, etc.) is seen as shameful. They have warned that women who pursue a legal case (especially against relatives) risk being ostracized or intimidated by their immediate family or community. Advocates have also noted that “relying on the incarceration for abusers does not address situations where women do not want or cannot afford to have their husbands [or other male relatives] go to jail.”⁴⁵

For activists contemplating a legal or fact-finding action, it is important to bear in mind that this is likely to be a lengthy and often emotionally demanding process. Police and members of the judicial system (judges, prosecutors) may be judgmental or hostile to the victims. Questions that must be considered before proceeding include the following:

- Does the context allow it?
- Will the proposed action endanger the members of the organization or provoke retaliation against either the community or those taking the action?
- Is the risk is worth taking?
- Will there be support from some sections of society?

⁴⁵ Julie Mertus, with Nancy Flowers and Mallika Dutt, *Local Action, Global Change: Learning about the Human Rights of Women and Girls*, UNIFEM and the Center for Women’s Global Leadership, 1999, p. 103.

- Is the process worth it?
- Will the effort lead to some progress (even if only in the long term)?
- Are there allies willing to back up the efforts?
- What are the realistic expectations?
- What are the political risks involved — is a backlash likely and will it jeopardize the gains already made?

If the decision is made to proceed, either with legal or some other kind of action, activists may want to consider contacting, where they exist, the local or national human rights commission, women’s commission, gender commission or government women’s ministry.

Given that, increasingly, national legislation in different countries has distinct provisions that specifically address violence against women, activists may choose to take a case or cases to court. In such instances, the focus may be on using existing provisions to underscore the rights of women and to secure the prosecution of crimes perpetrated by non-state actors. In many cases, however, laws do not mention such issues as domestic abuse, acid throwing, and others. Women therefore need advice specifically tailored to their needs from legal experts in order to identify which general provisions can actually be used to fit their case (including provisions in the Constitution and in human rights treaties).

Using State institutions in India

“The Constitution of India guarantees universal rights: we therefore have tremendous possibilities to use it in court. We even had successes using the Beijing Platform for Action, when there [was] a gap in existing laws. And judges have been willing to agree to uphold the Beijing Platform for Action, even though it is more a policy document than a legal document.”

“[Furthermore] in 1984, we [...] enacted a gender-specific law regarding cruelty against women. Cruelty is defined as encompassing factors affecting the physical and mental health and well-being of women. In our context, culturally speaking, women must bear children. Hence women who do not are often discriminated against. There are documented cases of husbands who have repeatedly used derogatory language against their wives who had not borne children, resulting in extreme forms of depression. We have secured convictions against these men on the basis of cruelty.”

Statement by Indira Jaysing, Senior Advocate of the Supreme Court of India and founding member of the Lawyers’ Collective (Women’s Rights Initiative); oral presentation at *Raising Standards to Tackle Violence against Black and Minority Women*, a national conference organized by Southall Black Sisters, London, November 15, 2004.

A more difficult issue arises in situations where women’s rights advocates must refer cases to courts that do not uphold human rights principles or, as in the following case, to religious courts.

The Lawal case

In September 2002, in Nigeria, Amina Lawal was sentenced to death by stoning by a lower *sharia* court, on the charge of adultery. The conviction was fought on appeal by the Women’s Right Advancement and Protection Alternatives (WRAPA) and BAOBAB for Women’s Human Rights. In September 2003, the Katsina State *sharia* court of appeal upheld the appeal against the conviction and sentence. This court held that pregnancy outside of marriage was not proof of adultery, that Ms. Lawal’s alleged confession was not a confession in law, and, that her rights of defence had not been properly recognized in the lower courts. The decision of those acting on Ms. Lawal’s behalf to appeal the case through the *sharia* courts was criticized on the grounds that there was a risk of legitimizing them and the result, while positive, did not contribute to laying down the foundation for better law. In response, Sindi Medar Gould, BAOBAB Director, stated that it was important to “understand and support our strategy and the nuances of working on rights in the context of Nigeria’s religious and ethnic identity politics.”

Human Rights Advocacy at the Community Level

In various contexts, activists often undertake human rights education and media campaigns that refer to human rights concepts in order to raise awareness in communities about various issues and the rights that accompany them. In many instances, the work done at one level (documentation) informs the work carried out at another (community awareness). Examples of the complementarity of approaches include the following.

Prevention of domestic violence

In the United States, Harman International, in collaboration with the Family Violence Prevention Fund, ran a project, from 2001 to 2003, on the prevention of domestic violence. The project included (a) a new company policy regarding abuse; (b) training on domestic violence and the new company policy; (c) distribution of information, safety cards and posters; (d) creating opportunities for employee volunteerism to support local programmes on domestic violence; (e) referral services. In the opinion of experts, this was the most comprehensive workplace project on the prevention domestic violence ever devised.

An evaluation of the effectiveness of the programme highlighted the following areas:

- increased awareness of domestic violence;
- greater understanding of what constitutes abuse;
- a dramatic rise in the willingness of others to help victims;
- greater knowledge of how to help victims.

The evaluation demonstrated conclusively that prevention programmes based in the workplace can change attitudes about domestic violence and influence behaviours. Sidney Harman, Executive Chairman of Harman International stated that, in the area of domestic violence, workplace training “benefits victims of abuse, it benefits communities, and it benefits the companies that sponsor the training.”

For more information on this project, see Family Violence Prevention Fund, *Innovative Workplace-Based Program Helps Employees Understand, Address Abuse*, 1 September 2004, <http://endabuse.org/newsflash/index.php3?SearchArticle&NewsFlashID=550>.

On the issue of FGM, opponents are at risk of being accused of betraying their own culture. This threat influences the strategic choices that are made about how to address FGM. Below are some examples of approaches shared at the Femi-nism in the Muslim World Leadership Institutes.

Female genital mutilation

In Gambia, Amie Bojang-Sissoho, a journalist, uses human rights concepts in her radio programmes to denounce the failure of the state to prevent FGM and to counter identity-based justifications of the practice. The programmes have been particularly effective in terms of reaching rural and illiterate women. Another strategy carried out in Gambia, by the Committee Against Harmful Traditional Practices (Gamcotrap), is to provide training for traditional birth attendants, midwives, health workers, youth, community leaders, religious leaders, parliamentarians, and government officials on the harmful effects of FGM. As part of this process, reference to human rights concepts and instruments is provided to communities via locally based organizations.

Similar strategies have been used in, for example:

- Mali: use of CEDAW articles during awareness-raising training, providing women with information about their right not to submit to FGM;
- Sri Lanka: call-in radio programmes led by activists from Muslim Women Research and Action Forum, focusing on women’s rights, including the right not to submit to FGM; the programmes offer callers an opportunity to raise their concerns and gain knowledge about their legal rights.

In summary, while each case or situation has its own characteristics, there are common points concerning human rights documentation work generally, including the following:

- adopting a human rights framework does not preclude pursuing other strategies and may possibly be used in conjunction with others;
- a careful assessment and thorough knowledge of the local and community contexts is needed to avoid potential pitfalls and increase the chances of success;
- strategies ought to be devised with the support of women's rights advocates together, with the full knowledge and consent of the affected woman or women;
- step-by-step support needs to be given to the woman or women whose rights are violated; this support may need to be extended beyond the immediate term;
- financial resources and a substantial expenditure of time are likely to be required.

As stated by Widney Brown, Deputy Program Director at Human Rights Watch, "The overwhelming reason [for human rights groups] to undertake and carry out thorough documentation of violence against women is to move away from the unreliability of governments" who otherwise would not address a particular issue.⁴⁶

⁴⁶ Quoted from a telephone interview, October 12, 2004.

CONCLUSION

As this manual has tried to demonstrate, informing women of their rights is crucial to empowering them, and ultimately to promoting the vision of a world in which violence against women does not occur.

Human rights principles, when used as a campaign tool, are effective (a) in highlighting human rights violations; (b) in influencing and mobilizing public and community opinion; (c) in pressuring social actors, even at a very modest, localized level. International human rights tools and mechanisms are also useful for women's rights advocates to make violations perpetrated by non-state actors visible and to ensure that these issues are a high priority for the international community.

One of the slogans adopted by Amnesty International for its Stop Violence against Women campaign was *It's in our hands*. The UN system can only work to the benefit of women to the extent that activists and advocates interact with the system regularly. In November 2004, the OHCHR Quick Response Desk reminded women's rights advocates that "communications [to governments] are based on the information received from you and your network of sources. Both your work and that of your partners is of crucial importance to protect the rights of people."

While there is no doubt that much progress has been made over the last decades, a number of areas still need to be strengthened, or explored further. One such area is how rights-based approaches in which human rights principles are woven into other kinds of programming and policy-

making — e.g., rights principles built into doctor-patient interactions; rights principles used to decide on the distribution of health resources; rights principles used to involve communities in decisions over the use of shared resources, and so on.

Participants at a workshop on violence against women, co-organized by Asia Pacific Women, Law & Development (APWLD) and Amnesty International, made a number of recommendations, highlighting areas for future work and action. The recommendations referred to the following, among other things:

- the need to look at the human rights framework as more than a legal framework and to see it as including the social policy dimension of violence against women;
- the need to strengthen the use of the human rights framework as a tool for empowerment;
- the need to continue to challenge narrowly focused hierarchical human rights concepts and to develop a holistic, integrated and inclusive framework that links women's specific human rights to the struggles for the rights of others (e.g., indigenous peoples, lesbians, gays, bisexuals and transsexuals, persons with disabilities, etc.).⁴⁷

In the context of domestic violence and violence in the community, exploitation by non-state actors can be addressed through international human rights law. The unwillingness of a State to deal with non-state actors can be challenged through advocacy and campaigns, with documents such as this manual providing guidelines.

⁴⁷ APWLD/ AI, "Violence Against Women – taking stock of the gains and challenges," Thailand, July 2004; the APWLD newsletter, *ForumNews*, is available online at www.apwld.org/forumnews.htm.

Factors that Perpetuate Gender-based Violence

Cultural factors	Economic factors	Legal factors	Political factors
<p>Gender-specific socialization</p> <p>Cultural definitions of appropriate sex roles</p> <p>Expectations of roles within relationships</p> <p>Belief in the inherent superiority of males</p> <p>Values that give men proprietary rights over women and girls</p> <p>Notion of the family as the private sphere and under male control</p> <p>Customs of marriage (bride price/dowry)</p> <p>Acceptability of violence as a means to resolve conflict</p>	<p>Women's economic dependence on men</p> <p>Limited access to cash and credit</p> <p>Discriminatory laws re inheritance, property rights, use of communal lands, and maintenance after divorce or widowhood</p> <p>Limited access to employment in formal and informal sector</p> <p>Limited access to education and training for women</p>	<p>Lesser legal status of women by written law and/or by practice</p> <p>Laws regarding divorce, child custody, maintenance and inheritance</p> <p>Legal definitions of rape and domestic abuse</p> <p>Low levels of legal literacy among women</p> <p>Insensitive treatment of women and girls by police and judiciary</p>	<p>Under-representation of women in power, politics, the media and in the legal and medical professions</p> <p>Domestic violence not taken seriously</p> <p>Notions of family being private and beyond control of the State</p> <p>Risk of challenge to status quo/religious laws</p> <p>Limited organization of women as a political force</p> <p>Limited participation of women in organized political system</p>

From Lori Heise and others, "Violence Against Women: A Neglected Public Health Issue in Less Developed Countries," *Social Science Medicine*, vol. 39, 1994, pp. 1165-1170.

Convention on the Elimination of All Forms of Discrimination Against Women

PREAMBLE

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and funda-

mental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of

nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;

- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - (a) The right to work as an inalienable right of all human beings;
 - (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
 - (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
 - (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
 - (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.
2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:
- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
 - (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
 - (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
 - (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.
3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
 - (c) To benefit directly from social security programmes;
 - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
 - (f) To participate in all community activities;
 - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - (a) The same right to enter into marriage;
 - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - (c) The same rights and responsibilities during marriage and at its dissolution;

- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimi-

nation against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

- (a) Within one year after the entry into force for the State concerned;
 - (b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the

United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph I of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.
3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

The complete text of CEDAW is also available on line at www.ohchr.org/english/law

APPENDIX THREE

CEDAW Complaint Form

Complaint Form to the Committee on the Elimination of Discrimination Against Women

Note: To be considered by the Committee, a communication:

- must be in writing;
- may not be anonymous;
- must refer to a State which is a party to both the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol;
- must be submitted by, or on behalf of, an individual or a group of individuals under the jurisdiction of a State which is a party to the Convention and the Optional Protocol. In cases where a communication is submitted on behalf of an individual or a group of individuals, their consent is necessary unless the person submitting the communication can justify acting on their behalf without such consent.

A communication will not normally be considered by the Committee:

- unless all available domestic remedies have been exhausted;
- where the same matter is being or has already been examined by the Committee or another international procedure;
- if it concerns an alleged violation occurring before the entry into force of the Optional Protocol for the State.

In order for a communication to be considered the victim or victims must agree to disclose her/their identity to the State

against which the violation is alleged. The communication, if admissible, will be brought confidentially to the attention of the State party concerned.

If you wish to submit a communication, please follow the guidelines below as much as possible. Also, please submit any relevant information which becomes available after you have submitted this form.

Further information on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, as well as the rules of procedure of the Committee can be found at www.un.org/womenwatch/daw/cedaw/index.html

The following questionnaire provides a guideline for those who wish to submit a communication. Please provide as much information as available in response to the items listed below. Attach additional pages as necessary.

1. Information concerning the author of the communication

Family Name

First name(s)

Date and place of birth

Nationality/citizenship

Passport/identity card number (if available)

Sex

Profession

Ethnic background, religious affiliation, social group (if relevant)

Present address

Mailing address for exchange of confidential correspondence (if other than present address)

Fax/telephone/e-mail

Indicate whether you are submitting the communication as:

(a) Alleged victim(s). If there is a group of individuals alleged to be victims, provide basic information about each individual

(b) On behalf of the alleged victim(s). Provide evidence showing the consent of the victim(s), or reasons that justify submitting the communication without such consent

**2. Information concerning the alleged victim(s)
(if other than the author)**

Family name

First name

Date and place of birth

Nationality/citizenship

Passport/identity card number (if available)

Sex

Marital status/children

Profession

Ethnic background, religious affiliation, social group (if relevant)

Present address

Mailing address for confidential correspondence (if other than present address)

Fax/telephone/e-mail

3. Information on the State party concerned

Name of the State party (country)

4. Nature of the alleged violation(s)

Provide detailed information to substantiate your claim, including:

Description of alleged violation(s) and alleged perpetrator(s)

Date(s)

Place(s)

Provisions of the Convention on the Elimination of All Forms of Discrimination against Women that were allegedly violated. If the communication refers to more than one provision, describe each issue separately.

5. Steps taken to exhaust domestic remedies

Describe the action taken to exhaust domestic remedies; for example, attempts to obtain legal, administrative, legislative, policy or programme remedies, including:

Type(s) of remedy sought

Date(s)

Place(s)

Who initiated the action

Which authority or body was addressed

Name of court hearing the case (if any)

If domestic remedies have not been exhausted, explain why.

Please note: Enclose copies of all relevant documentation.

6. Other international procedures

Has the same matter already been examined or is it being examined under another procedure of international investigation or settlement? If yes, explain:

Type of procedure(s)

Date(s)

Place(s)

Results (if any)

Please note: Enclose copies of all relevant documentation.

7. Date and signature

Date/place

Signature of author(s) and/or victim(s)

8. List of documents attached (do *not* send originals, only copies)

Cases can be submitted by mail to:

Committee on the Elimination of Discrimination against Women
Division for the Advancement of Women
Department of Economic and Social Affairs
United Nations Secretariat
2 United Nations Plaza, DC-2/12th Floor
New York, NY 10017
United States
Fax: + 1-212-963-3463

APPENDIX FOUR

**Complaint Form to the Special
Rapporteur on Violence Against
Women**

**CONFIDENTIAL
VIOLENCE AGAINST WOMEN
INFORMATION FORM**

INFORMER: the name and address of the person/organization submitting the information will remain confidential. Please also mention whether we can contact you for additional information, and if so by what means.

Name of person/organization:

Address:

Fax/tel/e-mail:

VICTIM(S): information about the victim(s) including full name, age, sex, residence, professional and/or other activities related to the alleged violation, and any other information helpful in identifying a person (such as passport or identity card number). Please mention whether the victim is willing for the case to be transmitted to the Government concerned.

Name:

Address:

Date of birth:

Nationality:

Sex:

Occupation:

Ethnic background, religious, social group (if relevant):

THE INCIDENT: including dates, place, and the harm suffered or to be prevented. If your submission concerns a law or policy rather than a specific incident, summarize the law or policy and the effects of its implementation on women's human rights. Include information about the alleged perpetrators: their names (if known), any relationship they may have to the victims and/or to the Government, and an explanation of the reasons why you believe they are the perpetrators. If you submit information about violations committed by private individuals or groups (rather than government officials), include any information which might indicate that the Government failed to exercise due diligence to prevent, investigate, punish, and ensure

compensation for the violations. Include information about the steps taken by the victims or their families to obtain remedies including complaints filed with the police, other officials or independent national human rights institutions. If no complaints have been filed, explain why not. Include information about steps taken by officials to investigate the alleged violation (or threatened violation) and to prevent similar acts in the future. If a complaint has been filed, include information about the action taken by the authorities, the status of the investigation at the time the communication is submitted, and/or how the results of the investigation are inadequate.

Date:

Time:

Location/country:

Number of assailants:

Are the assailant(s) known to the victim?

Name of assailant(s):

WITNESSES: Were there any witnesses?

Name/age/relationship/contact address:

Please bring to the attention of the Special Rapporteur any information which becomes available after you have submitted this form. For example, please inform the Special Rapporteur if your human rights concern has been adequately addressed, or a final outcome has been determined in an investigation or trial, or an action which was planned or threatened has been carried out.

Please return to the
Special Rapporteur on Violence Against Women
OHCHR-UNOG,
1211 Geneva 10
Switzerland
Fax: 00 41 22 917 90006
E-mail: urgent-action@ohchr.org

APPENDIX FIVE

Useful Addresses

WOMEN'S ORGANIZATIONS

Women's Initiatives for Gender Justice

Anna Paulownastraat 103, 2518BC, The Hague
Tel.: 31 (0) 70 365 2042 Fax 31 (0) 70 392 5270
Web site: www.iccwomen.org

RELEVANT UN BODIES

UN Division on the Advancement of Women (DAW)

(includes Commission on the Status of Women)
2 UN Plaza, DC2-12th Floor
New York, NY, 10017, USA
Fax: +1-212-963-3463 E-mail: daw@un.org
Web site: www.un.org/womenwatch/daw

RELEVANT UN ORGANIZATIONS

CONGO (also known as NGOCONGO, The Conference of NGOs in consultative relationship with the United Nations)

Geneva office

Isolda Agazzi Ben Attia, Programme Officer
(isolda.agazzi@ngocongo.org)
Rik Panganiban, Communications Coordinator
(rik.panganiban@ngocongo.org)
Address: 11, Avenue De La Paix, 1st Floor, 1202
Geneva, Switzerland
Post: CP 50, 1211 Geneva 20, Switzerland
Tel.: +41 22 301 1000 Fax: +41 22 301 2000

New York office

Anita Thomas, Coordinator, CONGO New York
Conference of NGOs
777 United Nations Plaza, 6th Floor, New York, NY 10017, USA
Tel.: +1 212 986 8557 Fax: +1 212 986 0821
E-mail: congony@ngocongo.org

Vienna office

VIC, Room C0266A
P.O. Box 500 VIC, A 1400 Vienna, Austria
Tel.: +43 1 260 60 4422 Fax: +43 1 260 60 5985
E-mail: congovie@ngocongo.org

Geneva NGO Subcommittee on the Status of Women

(Committee of Substance)
Conchita Poncini, President
International Federation of University Women
Room E2, NGO Lounge, Palais des Nations
1211 Geneva 10, Switzerland
Tel.: +41-22 917 4735 Fax: +41-22 917 0181
E-mail: ngocsw@iprolink.ch

APPENDIX SIX

Women's Human Rights Resources

RESOURCES ON THE INTERNET

General UN Human Rights Information
www.un.org

International Human Rights Instruments – Women's Human Rights
www.unhchr.ch/html/inttlnst.htm

United Nations High Commissioner for Human Rights
www.ohchr.org

United Nations Commission on the Status of Women
www.un.org/womenwatch/daw/cedaw/csw

United Nations Convention on the Elimination of All Forms of Discrimination Against Women
www.un.org/womenwatch/daw/cedaw/index.html

Women's Human Rights
www.law-lib.utoronto.ca/diana/

Women'sNet@igc
www.igc.apc.org/womensnet/

Women's Resources on the Web
www.women-online.com/women/

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Rights & Democracy (International Centre for Human Rights and Democratic Development) is an independent Canadian institution created by an Act of Parliament in 1988. It has an international mandate to promote, advocate and defend the democratic and human rights set out in the International Bill of Human Rights. In cooperation with civil society and governments in Canada and abroad, Rights & Democracy initiates and supports programmes to strengthen laws and democratic institutions, principally in developing countries.

عوانيت زير اش مسلم قوانين

Women living under muslim laws

النساء في ظل قوانين المسلمين

Femmes sous lois musulmanes

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Formed in 1984, Women Living Under Muslim Laws is an international solidarity network that provides information, support and a collective space for women whose lives are shaped, conditioned or governed by laws and customs said to derive from Islam. Present in more than 70 countries ranging from South Africa to Indonesia and Brazil to France, it links women living in countries where Islam is the state religion, in secular states with Muslim majorities, and in Muslim communities governed by minority religious laws; as well as women in secular states where political groups are demanding religious laws; women in migrant Muslim communities; and non-Muslim women who may have Muslim laws applied to them.