



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the International Association of Democratic Lawyers – IADL, a non- governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[4 June 2012]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Addressing femicide in Italy\*\***

The International Association of Democratic Lawyers (IADL), along with Giuristi Democratici, Pangea ONLUS, Donne In Rete contro la violenza (D.I.RE),<sup>1</sup> draws the attention of the United Nations Human Rights Council to the alarming trend violations of women's rights in Italy, specially women's right to a life free of violence.

### **Femicide as a result of intimate partner violence (IPV)**

According to the 2010 Eurobarometer survey by the European Commission on VAW, across Italy 91% of respondents think domestic violence is "fairly common" in their country.

Even if the total number of homicides and of female homicides is decreasing, femicides are increasing<sup>2</sup>.

Most part of femicides are intimate femicides, perpetrated by partner or ex-partner.

Out of 10 women killed by their (former) partner, 7-8 had already been facing other forms of violence by those men before being killed, that were denounced by the woman to police forces or social forces.

CEDAW Committee in 2011 expressed his concern about the high number of women murdered by their partner or ex-partner in Italy, and observed that high rates of femicides may indicate a failure of the State party's authorities to adequately protect the women victims from their partners or ex-partners.

### **Responsibilities of Italian State in preventing femicide and responding to IPV**

Italian Government seems to underestimate the due diligence obligation to prevent gender based killing.

The principal obstacle to the realisation of a comprehensive strategy is the institutional lack of awareness of the structural and gender dimension of femicide and IPV and lack of the political willingness to address underlying causes of discriminatory violence against women.

With the new Government<sup>3</sup> Minister of Equal opportunities was incorporated into Minister of Labour and there isn't a national institution with its own resources and exclusive competence on women's rights.

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\*\* Giuristi Democratici (GD), Pangea ONLUS, Donne In Rete contro la violenza (D.I.RE), NGOs without consultative status, also share the views expressed in this statement

<sup>1</sup> Giuristi Democratici (GD), Pangea ONLUS, D.I.RE are active members of the CSO Italian platform "30 YEARS CEDAW: work in progress", a network of organizations and experts engaged on women's rights that has a formal dialogue with the Italian Institutions. GD coordinated the CSO Platform for the drafting and the presentation of the first Italian Shadow Report in the 49 CEDAW session in 2011 in NY, to the UN CEDAW Committee. GD jointly with the CSO Platform started a campaign to raise awareness among women of their rights and to train institutions and professionals for the application of CEDAW and to use national and international procedures to prevent femicide and to protect women's rights.

<sup>2</sup> In Italy: during 2006 101 femicides on 181 female homicides; during 2010 127 femicides on 151 female homicides.

<sup>3</sup> Composed by unelected technical experts.

Since January 2012 femicides are increasing, no one Ministry made a public declaration to express that violence against women is socially unacceptable and no action was taken to contrast the phenomenon and disseminate information on available measures to prevent acts of violence against women among the public opinion.

The lack of understanding violence against women issues by professionals, law enforcement personnel and all State actors, increase exponentially the risk for women to be re-victimized or to be killed as a result of previous domestic violence.

The lack of mandatory training of all the professionals on how to identify risk factors and how to manage with survivors of violence against women make possible that laws are differently applied from district to district. . Actually are not available official data on mortality due to gender violence, and still lack a gender based collection of data at the police level and jurisdictional level.

The lack of data significantly affects the inability of institutions to predispose adequate policies for the prevention and protection of survivors of domestic violence, and affects the inability of media to properly represent and inform on femicide cases.

In order to encourage women to seek protection and report the violence they have been suffering, there is a need for sheltering facilities at local level.

The nationwide presence of accessible shelters should respond to the various protection needs of high-risk victims or women belonging to vulnerable categories.

The CEDAW Committee in 2011 C.O. asked Italy to “ensure that female victims of violence have immediate protection, including expulsion of perpetrator from the home, guarantee that they can stay in secure and well-funded shelters, in all parts of the country, and that they have access to free legal aid, psycho-social counselling and adequate redress, including compensation”.

Actually, no measures were taken to address those recommendations.

The Italian State must adopt specific strategies to monitor the risk of domestic violence and to protect women facing multiple forms of discrimination, specially migrant women, Roma and Sinti women, disabled women.

### **Regarding divorce**

One of the most important challenges is to prevent femicide as a result of IPV during/because separation or divorce.

This can be possible with the improvement in the cross over between criminal, civil and family law, strengthening mechanism for better protection of women and children during the separation and divorce phases.

The duration of the divorce proceedings may increase the risk of violence against women, so it urge a reform of the family code, suggested also by CEDAW Committee.

Psychological marital violence is very often not recognised in the Court as a responsibility for separation, because of the difficulty to prove domestic violence through witnesses, and because of the failure by the judges to recognize intimate partner violence.

Because of the law mechanisms, perception of family allowance and payment of alimony is statistically more difficult to women than to men.

Also child custody can be an occasion of re-victimisation. There is any law that explicitly recognize witnessed violence as a reason of exclusion of shared custody. This means that in case of IPV, whether there is a claim or a condemnation, often in the Courts happens that the children are forced to see the violent father. The refusal of the child to meet the

mistreating or abusive father is often interpreted by judges and social services as a psychological conditioning of the child by the mother (Parental Alienation Syndrome).

CEDAW Committee in 2011 express his concern for “reports of suspicion towards claim of child abuse in custody cases, based on the dubious theory of Parental Alienation Syndrome” and called upon Italian State “to evaluate the legal change in the area of child custody through scientific studies, in order to assess its long term effects on women and children, bearing in mind the experience accumulated in other countries on this matter”.

Despite this recommendation, in Parliament is still open the discussion to approve draft bill n. 957, that is a open violation of women and children’s rights, as it provide compulsory mediation for shared child custody, even if the woman was victim of intimate partner violence. This bill will not include intimate partner violence or witnessed violence as a reason for exclusion of shared custody. In addition, in violation of CEDAW recommendation, it provides PAS to be included among the reason for the exclusion of shared custody.

It urges the Italian State to ensure that the right to visit and the right to shared custody of a parent do not nullify the right to protection of women and their children.

### **Recommendations**

We call on the Human Right Council to reinforce the obligations of States obligations under international human rights law to prevent and respond to violations occurring in the private sphere.

We call upon Italian State to respect, fulfil and implement the 2011 Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW) and Recommendations of the UN Special Rapporteur on violence against women, Ms. Rashida Manjoo.

We urge Italian State to quickly ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

We remind Italian State of its obligation to exercise its due diligence obligations with regard to violence against women, to prevent, investigate, prosecute, punish and compensate for violence against women as well as provide services for women survivors of VAW including shelters.

Based on its obligations with regard to IPV and femicide, we urge Italian Government:

- to favour coordination among judiciary, police and psycho-social and health operators involved in protection of women;
- to act immediately to prevent shelters from closing because of the lack of funds;
- to provide to the harmonization of civil and criminal laws concerning the protection of women who are victims of domestic violence and related situation;
- to ensure the child and woman’s right to safety within child contact proceeding, also providing in case of domestic violence the prohibition of the perpetrator to seek contact, residency and shared parental responsibility within divorce and separation proceedings;
- to recognize that witnessed violence constitute a form of child abuse;
- to apply methods for monitoring the implementation of legislations;
- to provide victims of domestic violence with safe and prompt access to justice, in order to ensure them available, effective and sufficient remedies and rehabilitation.