



## **Economic and Social Council**

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### **Commission on the Status of Women**

#### **Fifty-seventh session**

4-15 March 2013

**Follow-up to the Fourth World Conference on Women and  
to the special session of the General Assembly entitled  
“Women 2000: gender equality, development and peace  
for the twenty-first century”: implementation of strategic  
objectives and action in critical areas of concern and  
further actions and initiatives**

### **Statement submitted by Advocates for Human Rights, a non-governmental organization in consultative status with the Economic and Social Council**

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.



## **Statement**

Advocates for Human Rights commends the Commission on the Status of Women for selecting elimination and prevention of all forms of violence against women and girls as the theme of its fifty-seventh session. Violence against women is a global pandemic in which up to 76 per cent of women experience physical or sexual violence during their lifetime. A two-pronged focus on primary prevention and multisectoral services and responses for victims/survivors offers a spectrum of approaches for addressing this problem.

Primary prevention, which, according to the World Health Organization (WHO), aims to prevent violence before it occurs, goes hand-in-hand with services and responses for victims and survivors. The premise of primary prevention is that male-female inequality must be addressed as a root cause of violence through legislation and policies aimed at social and economic factors. A critical element of addressing inequality is explicitly creating a climate of non-tolerance of violence against women and girls. States must communicate the message that society will not tolerate violence, and ensure that laws that prohibit and punish violence against women do just that. This statement will therefore address the intertwined approaches of prevention and response through legal reform and multisectoral responses to violence against women.

Based on the experience of Advocates for Human Rights in working with civil society and Government actors to combat domestic violence in 41 countries, we have found that strong laws and their effective implementation are the foundation of any effort to prevent and eliminate violence against women. Our work on legal reform is an essential part of a prevention strategy. Changing laws and ensuring their enforcement sends a powerful message that is a critical element of prevention, especially in societies where violence against women has long been an accepted part of the culture. The issues discussed below are among the most important that we have identified for preventing domestic violence.

### **Civil orders for protection**

One of the most effective means of preventing domestic violence is a civil order for protection. This is an order issued by a court or police that imposes certain limitations on an abuser's behaviour, including eviction of the abuser from the home and a prohibition against the abuser coming into contact with the victim. A 2009 study found that orders for protection are important public safety tools, with half of all victims surveyed experiencing no violations of the order. Likewise, the United Nations Handbook for Legislation on Violence against Women states that "protection orders are among the most effective legal remedies available to complainants/survivors of violence against women". Providing this protection to a victim is a key mechanism for preventing violence from happening to her again. However, for civil order for protection laws to effectively prevent domestic violence, they must be drafted and implemented in a way that protects victims and holds offenders accountable. In addition, the State must provide adequate funding and training to ensure that civil orders for protection are appropriately issued and rigorously enforced.

### **Psychological violence and coercive control**

A second key to preventing domestic violence is substituting coercive control for psychological violence in legal definitions of domestic violence. Currently, many countries include psychological violence in their definition of domestic violence. This term is vague, difficult for legal system officials to identify, and is easily manipulated by abusers. The result is that physically violent abusers may claim they were psychologically harmed by an intimate partner and police officers may use the provision on psychological violence to arrest and charge victims of physical violence. Verbal arguments between spouses may lead to the arrest of both parties. In the worst cases, the victim is not only arrested and charged, but also receives a greater punishment than the violent offender.

Instead of psychological violence, which can be broadly interpreted to include isolated incidents of name calling or insults, countries should include coercive control in their definition of domestic violence. Coercive control is a pattern of domination through intimidation, isolation, degradation and deprivation, in addition to physical assault. It includes tactics such as stalking and monitoring or regulating the victim's activities of daily living such as her access to money, food and transportation. These types of extreme control measures target the victim's autonomy, independence and dignity in ways that compromise her ability to make decisions concerning escape from the subjugation.

### **Predominant aggressor and dual arrests**

Effective prevention of domestic violence also requires that law enforcement officers accurately identify the predominant aggressor and avoid dual arrests. An abuser may try to convince the police that the violence was mutual and that he is also a victim. If both parties are arrested and charged, there is little possibility that the abuser will be convicted. The solution to the problem of dual arrests is for the police to identify and charge only the predominant aggressor — the person who is the most significant or principal aggressor. To identify the predominant aggressor, it is essential that police are trained to understand the dynamics of domestic violence. Police must be able to identify which injuries are due to self-defence and which are due to attack. They must be trained to look beyond the visual evidence and consider the context of the act of violence by identifying controlling behaviour in the predominant aggressor and fear in the victim. Police must be able to recognize the tactics of power and control. Identifying and holding predominant aggressors accountable is an essential technique for preventing domestic violence.

### **Coordinated community response**

One of the most effective methods of multisectoral services and responses for victims/survivors is coordinated community response. When key community actors, including law enforcement agencies, women's advocates, health-care providers, child protection services, local businesses, the media, employers and clergy, coordinate their efforts to protect battered women and hold offenders accountable, the efforts are more successful and send a strong message that violence will not be tolerated.

Coordination can significantly enhance the effectiveness of the community's response to domestic violence. According to one commentator, the implementation of new laws and policies is most effective when preceded by the development of a

community-wide strategy of reform. Such a strategy ensures that all members of the community respond in a consistent way to domestic violence and can be held accountable for their responses. In addition to being an effective response to domestic violence, coordinated community response communicates the message that a community will not tolerate domestic violence. Coordinated community response programmes can engage the entire community in efforts to change the social norms and attitudes that contribute to domestic violence.

### **Mediation and reconciliation**

Often, when victims of domestic violence seek to escape abuse by notifying law enforcement or pursuing divorce, they are forced to mediate and pressured to reconcile with their abusers. Mediation and reconciliation do not prevent future violence because they do not hold abusers accountable for past violence and they provide no legal protection for the victim in case of future violence. These practices assume equality between the two individuals when, in reality, abusers hold tremendous power over their victims. They inevitably create greater risk for victims and further empower abusers to continue their abusive conduct. Ending the use of these practices through law, policy and practice can promote prevention by putting abusers on notice that they will not be allowed to escape accountability for their actions.

The family law codes of many States require mediation in divorce proceedings. While some of these laws may create an exception for domestic violence, in practice there is inadequate screening to ensure that victims are not required to mediate or pursue reconciliation. Even when mediation is not mandated, courts and social service agencies may encourage victims to reconcile with their abusers. Because of the power imbalance, an abuser may use mediation as an opportunity to intimidate the victim and the victim may be too afraid to voice her concerns.

Likewise, in some countries couples may be required or encouraged to mediate before prosecutors will pursue criminal charges against an abuser. If the parties reconcile, the criminal proceedings are dropped. This practice wrongly recasts what should be a matter of public safety rather than an individual dispute. Not only does mediation subject the victim to threats, pressure or promises, it also ignores the social costs of failing to hold the abuser accountable. Domestic violence cannot be prevented if abusers are not prosecuted for their criminal conduct.

### **Conclusion**

In addition to the issues raised above, numerous other legal reforms and their effective implementation will both prevent and effectively respond to domestic violence. These include aggressive prosecution of domestic violence and violations of civil orders for protection, sufficient funding for the legal apparatus and non-governmental organizations that serve victims of domestic violence, and regular training for all legal professionals who interact with domestic violence to effectively protect victims and hold abusers accountable. Prevention and response go hand-in-hand, with the successes of one approach dependent upon and reinforcing the other.