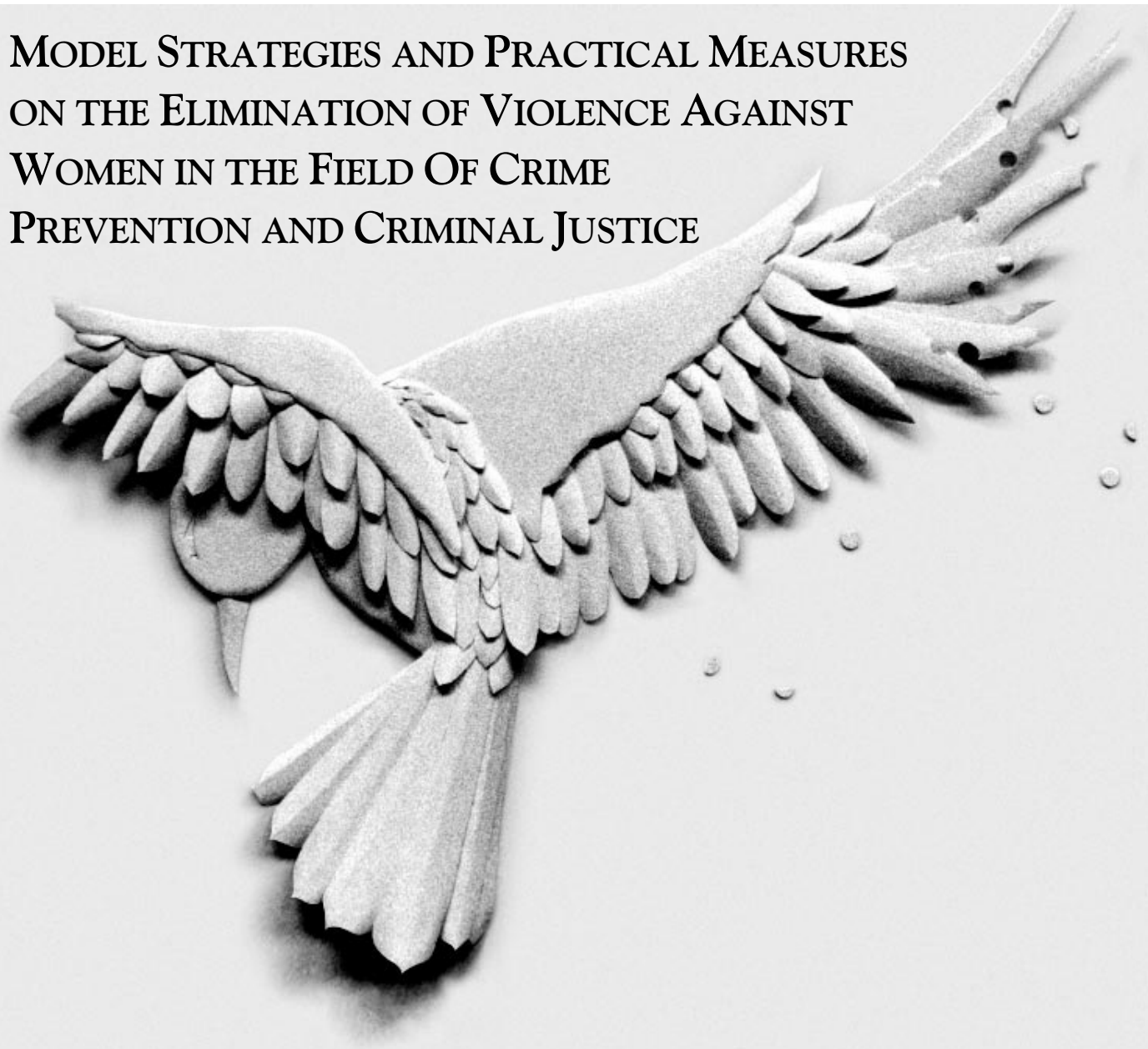


**MODEL STRATEGIES AND PRACTICAL MEASURES
ON THE ELIMINATION OF VIOLENCE AGAINST
WOMEN IN THE FIELD OF CRIME
PREVENTION AND CRIMINAL JUSTICE**



**RESOURCE
MANUAL**

***Model Strategies and Practical Measures
On The Elimination of Violence Against Women
In The Field of Crime Prevention and Criminal Justice***

This document was prepared, with the financial assistance of the Government of Canada, by the *International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR)* in cooperation with *The Centre for International Crime Prevention, United Nations Office for Drug Control and Crime Prevention (CICP/ODCCP)*, the *European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI)*, and the *Latin American Institute for Crime Prevention and the Treatment of Offenders (ILANUD)*.

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(March 1999)

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VISION STATEMENT

This Resource Manual is offered in the hopes that it will contribute to international and domestic efforts to eliminate violence against women.

At the international level, there exists a clear agenda for action to eliminate violence against women. The United Nations Commission for Crime Prevention and Criminal Justice, at its sixth session in Vienna in April/May 1997, took measures to implement the *Beijing Platform for Action* within its own field of competence of crime prevention and criminal justice and adopted a draft *Resolution on the Elimination of Violence Against Women*. That resolution, later approved by the Economic and Social Council and the General Assembly,¹ calls upon Member States to review their own laws and practices in the criminal and social spheres to determine whether they could be modified to better address the needs of women and ensure their fair treatment in the justice system.

The resolution includes an Annex entitled *Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice*, which reflects an international consensus on a comprehensive set of criminal justice strategies and measures to address all forms of violence against women. These strategies cover criminal law, criminal procedure, police powers, sentencing and corrections, victim support and assistance, health and social services, training, research and evaluation and crime prevention. The adoption of such a document, while important, is just one step towards actual improvement in practice. These strategies must be implemented domestically. Practical tools, such as this *Resource Manual* and a *Compendium of Promising Practices*, have been developed to assist policy makers, criminal justice and law enforcement professionals and other concerned groups put these strategies into practice. They must be implemented with full sensitivity to the cultural and religious differences which are manifest in each Member State.

Violence against women is not only one of the most prevalent crimes in most human societies, it is also one of the most devastating in its consequences, both to primary victims and to secondary victims, such as child witnesses. Victims of violence, especially of the kinds most often suffered by women, where the violence is likely to be inflicted by those closest to them,

¹ General Assembly resolution 52/86 of 12 December 1997.

experience injuries which can go far beyond the physical. These include difficulties in a wide variety of life experiences, both immediate and later, such as poor adjustment to educational and employment situations, anxiety and depression, learning difficulties, problems in forming healthy relationships, and difficulties in understanding social situations. Violence against women is one of the most serious barriers to the achievement of equality between men and women.

Efforts to eliminate violence against women (including girl children) should be guided by goals and principles which include the paramountcy of safety for victims, the empowerment of women, and respect for the dignity of all persons. It is human dignity and the rights that derive from it, including non-discrimination and gender equality, that are at the heart of the normative framework and legal context for combating all forms of violence against women. The language of human rights, as used concerning violence against women, is not that of protection as a matter of political will, nor that of privilege accorded. It is a language of rights and obligations, entitlements and duties, a language full of terms of accountability.

The *Model Strategies* recognize the importance of bringing a gender perspective to the design and reform of policies and programmes; of achieving gender equality and equal and fair access to justice; and of striving for gender balance in areas of decision-making related to the elimination of violence against women. The importance of these principles cannot be overstated, nor the importance of involving women and non-governmental organizations in all aspects of the elimination of violence against women. These aspects include the identification of the issues and challenges, the analysis of policies and programmes, decision-making in the criminal and civil justice systems and related fields, the delivery of services, review, appeal and other accountability systems, and the design and carrying out of related research and evaluation.

Although the *Model Strategies* are focused, as their title implies, on crime prevention and criminal justice approaches, there is no question that a strategy which relies solely on efforts within and around the justice system is doomed to have only limited impacts. The pervasiveness of violence against women suggests that it is deeply grounded in attitudes and behaviours which must be addressed from a variety of social, economic and spiritual directions. The *Model Strategies* suggest a series of measures which can be taken in a wide variety of areas to prevent violence against women and improve the law and processes for dealing with incidents of violence. They also touch on issues related to public awareness, the media, research and health and social services. It is clear that many criminal justice practices are themselves contributing to the problem and must be changed, and that prevention is, in every way, preferable to dealing with the problem after it has occurred. Virtually every section of the *Strategies* has a preventive aspect to it. However, the vigorous and effective use of civil and criminal justice in the struggle against violence is a critically important component of a sound and sustainable strategy. Criminal justice systems can be mobilized to become more effective tools in denouncing, preventing and responding to incidents of violence against women.

Rich partnerships, and the full participation of women and children, are another hallmark of a strategy which is more likely to be effective. The *Model Strategies* recognize the need for a collaborative effort which includes workers within the justice systems, other governmental and quasi-governmental bodies, non-governmental organizations (NGOs) and community groups, including organizations seeking women's equality, community leaders and elders, relevant professional associations, foundations, research institutes, religious and spiritual organizations and leaders, the institutes of the United Nations network, other relevant international organizations, and both prominent and ordinary women and children.

It is critical that these partnerships exist to tackle all aspects of the strategy to eliminate violence against women, including analysis of the problem, legislative and policy change, protocols and guidelines, training, service delivery and support, research, monitoring and evaluation. In particular, the importance of research and evaluation as tools for change cannot be over-emphasized. Strategies without funding are unlikely to have much effect, and so adequate resources are also an essential element for success and sustainability.

The Introduction to the *Strategies* notes that some groups of women are especially vulnerable to violence. The UN Special Rapporteur on Violence Against Women has discussed the plight of women in general, and of many of these particularly vulnerable groups. Among those who are especially vulnerable are the elderly and the very young, who are or may be completely dependent on others for the necessities of life; women who are economically dependent, for one reason or another; women in confinement or in institutions of various kinds; refugee and immigrant women; women in situations of armed conflict and those who are internally displaced as a result of such conflict; mentally disabled and physically challenged; indigenous women and women from racial, ethnic or cultural minorities which are subject to disadvantage, including through reduced access to justice; and women with literacy deficits or those in need of translation and interpretation assistance. Not only are these women especially vulnerable to violence, but they may require special strategies which are designed to meet their particular circumstances and needs. The *Strategies* suggest that Member States of the United Nations should consider the particular challenges faced by these women in their approach to policy and practice, adapting them to meet special needs. This *Manual* cannot hope to offer a comprehensive analysis of all the needs of and particular initiatives required by particularly vulnerable groups of women, but it does present some examples of action in particular countries.

PURPOSE OF THIS RESOURCE MANUAL

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This *Manual* is meant to offer concise information on the experiences acquired in various countries in successfully implementing the *Model Strategies*. Another useful tool is the *Compendium of Promising Practices on the Model Strategies*, developed to provide users access to detailed information on specific measures being undertaken in different contexts, resource people and organizations with their contact information and references to other sources of information.

² The meeting of experts to review and finalize this manual was held in Vancouver, Canada on December 17-19, 1998.

Co-Chairs: Kristiina Kangaspunta (HEUNI), Eileen Skinnider (ICCLR)

Rapporteur: Ralph Krech (CICP/ODCCP)

Experts: Christine Achieng (Foundation for Human Rights Initiative, Uganda), David Allen (Health Canada), Lily Artz (Institute of Criminology, University of Cape Town, South Africa), Charlotte Burns (Vancouver/Richmond Regional Health Board, Canada), Renée Collette (National Parole Board, Canada), Yvon Dandurand (ICCLR), Nazneen Damji (UNIFEM), María de la Luz Lima (Mexican Society of Criminology, Mexico), Patricia Dunberry (Department of Justice Canada), Denyse Dufresne (National Crime Prevention Centre, Canada), Virginia Feix (ILANUD), Dundeen Ferguson (Woman Inc., Crisis Centre for Women, Jamaica), Lily-Ann Gauthier (International Centre for the Prevention of Crime, Canada), Joan Glode (Mi'kmaw Family and Children Services, Canada), Keith Hammond (Vancouver Police Department, Canada), Korbkul Kaewtipaya (Office of the Attorney General, Thailand), Liz Kelly (Woman and Child Abuse Studies Unit, University of North London, United Kingdom), Susanne Keppler-Schlesinger (Permanent Mission of Austria to the United Nations), Linda Light (Ministry of Attorney General of British Columbia, Canada), Carmen Lomellin (Inter-America Commission of Women, Organization of American States), Osnat Lubrani (UNIFEM), Yilma Makonnen (Office of the UNHCR), Maureen Maloney (Ministry of the Attorney General of British Columbia, Canada), Purnianti Mangunsong (Institute of Criminology, University of Indonesia), Elizabeth McFadyen (Alberta Court of Appeal, Canada), Guillemette Meunier (UNICEF), Carole E. Morency (Department of Justice Canada), Joan Nuffield (ICCLR), Bronwyn Pithey (Rape Crisis Cape Town, South Africa), Petsuksiri Pornpen (The National Institute of Public Administration, Thailand), Daniel Préfontaine (ICCLR), Giedre Purvaneckiene (UNDP, Lithuania), Jill Radford (School of Social Sciences, University of Teeside, United Kingdom), Pongpat Riangkruar (Office of the Attorney General, Thailand), Graham Robinson (Royal Canadian Mounted Police, Canada), Saskia Rodriguez-Steichen (ILANUD), Susannah Rowley (Status of Women Canada, Canada), Ivana Stevanovic (Institute for Criminological and Social Research, Federal Republic of Yugoslavia), Julie Stubbs (Institute of Criminology, University of Sydney, Australia), Olga Trujillo (Office for Victims of Crime, US Department of Justice, USA), Evelyn Zellerer (School of Criminology and Criminal Justice, Florida State University at Tallahassee, USA)

Throughout this *Manual*, each provision of the *Model Strategies* will be summarized in plain language, followed by a statement of the challenges entailed, a description of initiatives from around the world which address each provision, and, where applicable, a discussion of what is known about the impact of implementation efforts. This approach has been used in an effort to make the *Manual* as accessible as possible. However, this use of plain language inevitably loses some of the legal precision of the original, as well as such cautions as the need to be sensitive to the nature of the legal system of individual countries. The original text of the *Strategies* can be found in the Appendix, and readers are urged to refer to it when in doubt about the meaning of any section.

DEFINITIONS

The *Strategies* themselves state that, “except where otherwise specified, the term ‘women’ encompasses ‘girl children’.”

Violence against women constitutes a violation of the rights and fundamental freedoms of women. To strengthen the process to contribute to the elimination of violence against women, the United Nations proclaimed the *Declaration on the Elimination of Violence against Women* and the *Beijing Declaration and Platform of Action*.

The term “violence against women” is defined in the 1993 *Declaration on the Elimination of Violence Against Women* to mean:

“any acts 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, whether occurring in public or in private life”.

Further clarification of the definition of “violence against women” can be found within the *Declaration*.

Article 2 of the *Declaration* understands violence against women to encompass:

- a) Physical, sexual and psychological violence occurring in the family, including 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 and violence related to exploitation;
- b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in education institutions and elsewhere, trafficking in women and forced prostitution;
- c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Other international instruments and discussions have stressed the power and control issues which are part of violence against women. For example, the 1990 Asian Pacific Forum on Women, Law and Development defined violence against women as “any act involving the use

of force or coercion with the intent of perpetuating or promoting hierarchical gender relations”.

It will be seen later, in the discussion under Section I of the *Strategies*, that some countries have, in their national and other legal systems, adopted very broad definitions of violence against women and abuse of women. Some have included psychological and economic harm, for example, in their applicable statutes, and have deliberately used encompassing and gender-neutral language in an effort to be inclusive of situations and relationships of all kinds – such as situations in which female family members participate in acts of female genital mutilation, and acts of violence within lesbian relationships. There would appear to be nothing in the *Strategies* which runs counter to these relatively broad national definitions.

OTHER RELEVANT INSTRUMENTS

The *Model Strategies* seek to implement and build upon UN efforts to grapple with issues related to discrimination and violence against women. The rights and principles concerning equality, security, liberty, integrity and dignity of women are enshrined in international instruments, including:

- *The Universal Declaration of Human Rights;*
- *The International Covenant on Civil and Political Rights;*
- *The International Covenant on Social, Economic and Cultural Rights;*
- *The Convention on the Elimination of All Forms of Discrimination Against Women;*
- *The Convention on the Rights of the Child;*
- *The Convention on the Political Rights of Women;*
- *The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; and*
- *The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*

The only regional instrument specifically addressing the issue of violence against women is the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belem Do Para)*³. This binding treaty, drafted and approved by the delegates of the Inter-American Commission of Women, confirms violence against women is a deprivation of human dignity and a form of discrimination. Similar in tone to the 1993 *UN Declaration*, the *Convention* differs in that it takes special account of vulnerable women to violence, including migrants, refugees or displaced persons and includes methods of implementation.

Other relevant UN documents include *The UN Resource Manual on Strategies for Confronting Domestic Violence* published in 1993.

³ This Convention was adopted by acclamation by the 24th regular session of the General Assembly of the Organisation of American States on June 9, 1994, in Belem do Para, Brazil.

I. CRIMINAL LAW

(a) General Review of Laws

Section 6(a) of the Model Strategies urges Member States to periodically conduct a review of all their laws, especially criminal laws, to make them as effective as possible in preventing violence against women and to remove provisions which permit or condone violence against women.

The Need for Multifaceted Approaches. The *Model Strategies* make it clear that criminal law is not the only type of law which can affect or is related to violence against women. The social, cultural, religious, economic and political structure and traditions of a country can influence and shape attitudes towards women and violence against them. Civil law, and in particular family law, can have as much of an influence on violence against women as can criminal law. The same can be said of efforts to achieve greater integration of the processes or considerations of civil and criminal law, as for example where civil courts reviewing separation and child contact orders take into account prior violence in the home. Another example would lie in the intersection of criminal and immigration law, where women may be forced to choose between reporting violence and remaining in their new country if their residency there is dependent on their relationship with their abuser.

National Action Plans. Therefore, Member States may wish to engage in a multifaceted review of their Constitutions, civil codes and procedures, and other laws in order to assess whether these allow, either by specific provisions or omissions, conditions which create special vulnerabilities for women. In keeping with the commitments made in Beijing (1995), the majority of countries have established national action plans to address the needs and priorities of women. National action plans can be an extremely useful tool with which to reassess strengths and weaknesses, set targets, identify civil society partners and plot future directions in ensuring women's empowerment.

Review Mechanisms. The review of laws, codes and procedures can be institutionalized by establishing permanent review boards within legislative and administrative bodies. Some countries have set up national offices to follow-up on their commitments made in Beijing and a number of those offices have powers to initiate legislative actions. If countries have national machinery on women's issues, that ministry, department or office usually takes primary

responsibility for reviewing gender specific issues but other ministries should be involved through coordination. Most ministries, departments or offices which have responsibility for women's issues have developed processes for consulting with other government departments and civil society.

Even when such national machinery exists, some countries have established structures such as human rights commissions, gender commissions, law reform commissions and other formal structures which are independent from the government and are empowered to review laws and provide public recommendations to the government. For example, one Member State, which has an Office of the State Minister for the Role of Women, has also established the "Women's Protection Team Against Violence", an independent body consisting of experts, which communicates directly with the head of state on matters dealing with violence against women.

Other countries have established a standing government committee or a mixed body comprised of government and non-government agencies for the purpose of reviewing and evaluating existing laws. There is an expressed concern that Task Forces reviewing the laws and making recommendations, must include some sort of mechanism to ensure follow-up. Practical steps are needed to maintain ongoing review and accountability with provisions for publishing regular "report cards". Some form of public accountability reporting from the criminal justice professionals can greatly enhance the review process.

(b) Prohibition of All Acts of Violence Against Women

Section 6(b) of the Model Strategies urges Member States to review and make changes to their civil and criminal laws, in ways which are appropriate to their own legal system, in order to ensure that all acts of violence against women are prohibited.

This section calls upon Member States to ensure that they have a comprehensive set of legal prohibitions covering all acts of violence against women. Below, some of the issues inevitably raised by such an exercise are outlined. Some of these questions will resonate in certain cultures more than in others. Policy-makers will need to take into account the particular contexts, cultures and legal traditions of the Member States within which they operate. Multiple issues are raised with regard to the definition of violence in criminal law. In many cases, these touch on questions of cultural norms and traditions which are related to the causes and manifestations of violence in its many forms.

Constitutional Provisions. Some States have taken a very broad-reaching approach and amended their Constitutions in order to express a clearer condemnation of violence against women. As the country's fundamental source of written law, the Constitution establishes national principles and lays the foundation for other legislative strategies. Most State constitutions do not specifically mention violence against women. However, they may in effect address questions related to it by the inclusion of provisions dealing with such issues as

equality before the law, freedom from gender discrimination, freedom from torture, and the right to life, physical and mental integrity.

Some States include constitutional provisions that specifically address violence against women or redress the negative treatment of women. Examples of Constitutional provisions created in some countries include the mention of such principles as:

- gender equality and the unacceptability of all forms of discrimination against female citizens;
- the right to security and integrity, including the right to be free from all forms of violence in the home, in the community, in the workplace and in public places;
- the need to penalize violence in the family, which is destructive to harmony and unity in the family; and
- women's right to be protected by the State from harmful customs which oppress women.

The UN Special Rapporteur on Violence Against Women, in her preliminary report⁴, discussed in detail the various manifestations of violence against women, dividing them into three broad categories:

- (i) violence in the family: domestic violence, traditional practices, infanticide, and incest;
- (ii) violence in the community: rape, sexual assault, sexual harassment, commercialized violence, such as trafficking in women, prostitution, labour exploitation, pornography and the exploitation of women migrant workers; and
- (iii) violence by the State: women in detention and custodial violence, women in armed conflict and refugee situations.

How various jurisdictions prohibit all forms of violence against women will be discussed in detail below. It should be noted that while this section follows the categories as set out by the Special Rapporteur on Violence Against Women for the sake of easy reference, it is recognized that there can be overlap among the categories. For example while child abuse is discussed under the heading of violence in the family, child abuse does not just occur within the family. While rape occurs within the family, outside the family and in detention by the state, marital rape is discussed under the heading of violence in the family while rape is dealt with under the heading of violence in the community. Another example is stalking which while discussed under violence in the family is not always a family matter.

(i) Violence in the Family

Violence in the family is recognized as a major, if not the principal, type of violence against women in many if not most areas of the world. This can include woman-battering, violence against children, marital rape and other non-consensual sexual activity, incest, forced prostitution, forcible confinement of women to the home, violence against domestic workers,

⁴ United Nations Economic and Social Council (1994) Preliminary Report Submitted by the Special Rapporteur on Violence Against Women, its Causes and Consequences, Ms. Radhika Coomaraswamy, in Accordance with Commission on Human Rights resolution 1994/5.

sex-selective abortion and female infanticide, and traditional practices affecting the health of women and children, such as female genital mutilation.

Violence against women within the family occurs between persons who are often connected by legal, economic, social, religious, child-rearing and emotional bonds. Some people argue that because of the complex relationship between victim and perpetrator, criminal law is an inappropriate response. However, most experts believe that the vigorous and effective prosecution of conduct as criminal provides an important message that society condemns such conduct. Furthermore, the conduct is, in fact, criminal, and must be treated as such.

However, there is little doubt that reforming the criminal law itself will not eliminate this violence. A cooperative effort among different sectors of society and a combination of approaches involving public education, criminal law sanctions against the offender, treatment of the offender, support for the victim, and a broad-based combination of community services involving health, housing, and other social and economic supports to the family are required to address this complex problem.

Included Relationships. The definition of “domestic violence” or “family violence” differs from one jurisdiction to another, some describing violence against women in the nuclear family only, such as spousal assault or child abuse. Wider definitions of domestic violence includes any violence where the victim and perpetrator have some form of personal relationship. Some States have a definition of family violence which is broad enough to encompass violence against persons in relationships of dependency, to include persons in institutions. Domestic violence may include situations of common-law marriage, former cohabitants, persons who have had a child together, persons who have dated, extended families, and unrelated persons (such as nannies) living within the family residence. Broad definitions of domestic violence are contained within the legislation of several countries. One country makes careful use of language in order to include same-sex relationships.

Types of Behaviour. The violent conduct may be defined to include physical, sexual, psychological or other types of violence. Psychological violence is prohibited in many domestic violence statutes, sometimes implicitly, but at times explicitly defined. Among the broader definitions found in Member States are the following:

- One country defines psychological abuse to include a pattern of conduct which is engaged in to the dishonour, discredit or scorn of the personal worth of a person, unreasonable limitation on the access and handling of common property, blackmail, constant vigilance, isolation, deprivation of adequate access to food or rest, threats of loss of custody of sons or daughters or destruction of objects held in esteem by the victim.
- Another Member State includes blackmail, economic violence (the unreasonable impediment of access to and management of shared property) and grave emotional harm and intimidation in its definition of psychological violence.
- Another national definition includes harassment, which is defined as persistent verbal abuse, hiding of clothing or other property, and watching or besetting a house.

- Other countries include the willful destruction or seizure of property as an act of violence.
- Some laws include economic violence within the purview of psychological harm.

General versus Specific Approaches. Most countries include domestic violence offenses within the general criminal statutes prohibiting such acts as homicide, assault and confinement of persons against their will. There is still active debate as to whether this is the most effective approach. Many countries have seen acts of domestic violence treated less seriously, and pursued less intensively, without special legislative provisions or administrative guidance. Some countries have enacted specific legislative provisions to deal with domestic violence. One approach has been to specifically address this issue in the constitution. Several countries include an article on domestic violence in their constitution.

Other Member States have amended their penal codes to make special provisions dealing with domestic violence. Yet other States have developed comprehensive domestic violence legislation which may combine civil and criminal remedies. Domestic violence legislation can serve as a useful tool integrating the remedies necessary to women victims while still criminalizing the act of domestic violence. These specific pieces of legislation generally do not refer to the unique character of gender-based violence. However, one such piece of legislation specifically states that the objective of the law is to protect the physical integrity of women.

A concern raised in separating domestic violence from other forms of violent crime is that it may be trivialized or not be treated as real crime. Some countries which have created special domestic violence offenses have addressed this concern by clearly stating that violence occurring in the home is an aggravating factor at sentencing (see later sections of this *Manual*).

However, in other specific domestic violence legislation, the approach has been to deal with domestic violence primarily through the use of civil protections for the victims. In some countries, the domestic violence legislation supplements the penal code, where these acts are defined as offenses. In some areas, legislation dealing with victims of family violence has been recently enacted. These are civil family violence laws which complement the criminal provisions and provide additional remedies to address the needs of victims of family violence and their children.

Other countries have continued to use their general criminal laws to deal with domestic violence, but have issued special guidelines to police, prosecutors and other criminal justice officials which underline the seriousness of the offenses and the duty of public officials to treat them accordingly.

Special Vulnerabilities of Children. Most countries have criminal prohibitions specific to physical and sexual abuse and neglect of children. In one country, the statute explicitly recognizes the special vulnerabilities of the child arising out of the parent's position of trust, power and authority over the child, referring to "exploitation of a dependent relationship for the purpose of engaging in sexual acts". In other countries, persons who abuse positions of

trust in committing child abuse are subject to stiffer penalties, as the abuse of the position of trust is considered an aggravating factor.

While not all countries have a domestic violence statute *per se*, one country has specifically addressed crimes related to the rights of girl children and their mothers. This legislation states that “drowning, abandoning, or brutally injuring female infants is prohibited; discriminating against or maltreating women who give birth to female children, or who are barren, is prohibited; injuring women through superstitious belief or violence is prohibited ...”

There is debate over the issue of corporal punishment of children in the family and in schools or care in juvenile justice institutions. Different countries have differing levels of “legal” violence towards children, characterizing such violence as forms of allowable punishment. Only a few countries prohibit all violence punishment of children. One country’s *Parenthood and Guardianship Code* states that “Children are to be treated with respect for their person and individuality and may not be subjected to corporal punishment or any other humiliating treatment”. The European Human Rights Commission rejected an application by a group of parents from this country who alleged that this law breached their right to respect for family life.

Marital Rape and other Non-Consensual Sexual Contact within the Family. Not all countries have criminalized spousal rape or other non-consensual sexual contact committed within the marriage. In some countries, it is considered criminal only in cases where the parties have a judicially recognized separation. However, common law decisions in some countries, and legislation in others, have recognized the criminal nature of non-consensual sexual activity committed within marriages which are still in force. One country has a criminal law provision stating that whoever assaults or uses criminal force against any woman and strips her of her clothing and in that condition exposes her to public view, shall be punished by death or life imprisonment.

Incest is also a taboo as well as a criminal offense in most societies. In one country, a 1992 amendment establishes, as an aggravating factor at sentencing, the commission of an aggressive sexual act when “it is committed by a legitimate, natural or adoptive parent”. This holds true in acts committed “without coercion” and acts involving a minor over the age of 15.

Statutory rape – sexual assault of minors – does not of course always occur within the family. It is based on the assumed incapacity of persons below a certain age to consent to sexual intercourse. The age at which children are permitted to consent to sexual activity varies from country to country between 12 and 18 years. Many countries create a defence to statutory rape involving the age of the accused or the relative difference between the ages of the parties. Offenders who are in a position of trust or authority over the victim (such as baby-sitters), however, are often specifically subject to prosecution for sexual intercourse with a minor. One country’s criminal statute establishes that it is a criminal offense to have sex with

someone under the age of 14 years, with an exception where the younger partner is at least 12 years of age, where the age difference between the two partners is less than two years, and where the older youth is not in a position of trust or authority.

Stalking. Stalking (or as some States term it, “criminal harassment”) most often occurs among family members or persons who are known to one another. It is, by its nature, threatening to the victim, and may often precede acts of violence. Stalking is generally conceived as certain conduct which causes victims “reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them” (in one country’s wording). This criminal law section further defines the prohibited conduct as repeated following, repeated communications, besetting or watching, or threatening conduct.

Several countries have similar definitions. One country defines harassment in its *Domestic Violence Act* and has a particularly comprehensive list of qualifying conduct, including cursing, screaming, humiliating, threatening with physical harm or violence, breaking things or damaging things which are important to the victim, making the victim afraid, hiding things which belong to the victim, watching over the house, workplace, etc., making unwelcome advances, and using abusive language. A new approach in another country creates a new offense of “gross violation of a person’s integrity”. An offender who commits a pattern of criminal acts (such as assault) against a current or former intimate partner will be charged with the new offense, rather than with the individual acts which make up the “gross violation”. The new offense carries a minimum penalty of six months, can be charged simultaneously with aggravated assault or rape, permits the court to take the entire situation of the abused woman into account, and also protects children, whose “integrity” may be at issue.

Traditional Practices. In many societies there are common traditional practices that involve degrees of physical and/or mental violence to women and the girl child. These practices include female genital mutilation, initiation ceremonies or widowhood rituals, such as binding, scarring, burning, branding and tattooing, and deliberate discriminatory treatment such as preferential feeding and care of male children, selected abortion of female fetuses, female infanticide and certain practices which regulate female virginity, such as forced virginity exams. Reviewing traditional practices, which have cultural and religious roots and may themselves contribute to the cultural identity of women, requires great sensitivity. However, it is important to note that the UN Declaration on the Elimination of Violence Against Women calls upon states to condemn violence against women and not invoke custom, tradition or religious considerations to avoid their obligation in this respect.

Acts arising out of traditional practices, but now considered crimes, have been the subject of legislation in certain countries. The law in at least one country now prohibits forced marriages. In two countries, dowry deaths, giving and receiving a dowry, and burning of the widow are crimes under the Penal Code. A 1986 amendment to the dowry laws in one of these countries makes the husband or in-laws punishable if a woman commits suicide within seven years of her marriage, and if it is proven that she has been subjected to cruelty.

Few Member States have legislation specifically prohibiting the practice of female genital mutilation. Other countries have used existing laws of assault or child abuse to include the practice within criminal prohibitions. In one country, a 1983 common law decision established that female genital mutilation is an assault punishable under criminal law, and the specific nature of the act is an aggravating factor at sentencing.

Since female genital mutilation and other traditional practices are sensitive issues in many societies, in addition to passing legislation, many organizations rely on education, information and awareness-raising. The Inter-African Committee in Addis and Geneva focus primarily on health and education strategies. Important for success of these campaigns is the inclusion of religious and community leaders and prominent women in the community.

(ii) Violence in the Community

Violence in the community includes rape, sexual assault, sexual harassment, and violence for commercial purposes, such as trafficking in women, child prostitution, exploitation of labour, and pornography.

Rape and Sexual Assault. In some countries, no legal distinction is made between these terms; there is a graduated system in defining and covering sexual violence, including rape. Penalties escalate in accordance with the gravity of the offense, with the gravity being judged by the violence or other means used to gain the victim's submission to the unwanted sexual act. Rape and sexual assault are criminal offenses in virtually every Member State, but there are issues surrounding how best to define the elements of the crime. Different countries take different approaches. Some of the issues include the following:

- treating sexual assault as a crime against morality (generally considered less serious), rather than a crime of aggression which violates personal integrity and control over one's body;
- problems with defining rape by reference solely to penile penetration of the vagina or other bodily orifices (in some countries, rape law has been replaced by "sexual assault", with no definition offered in the legislation, leaving the development of common law to the judiciary);
- gender-specific definitions which do not include rape of any person by any other person;
- force or violence as a mandatory element of the crime;
- the definition of consent, and where the burden should lie (see below); and
- graduated definitions of sexual assault which escalate according to the amount of force used or bodily harm inflicted, leading to concerns that unarmed sexual assault or assault unaccompanied by battery may be treated as a less serious offense.

Many countries are reforming the classification of sexual assault in the law from a crime against morality to a crime against the person or physical integrity. In different Member States, this new classification ranges from violation of the human person and violation of a

person's right to self-determination, to offenses against sexual integrity and violations of sexual freedom. Non-government organizations in various countries call for language that avoids moralizing the crime and using the concept of sexuality. The Council of Europe affirms that rape should be classified always as an infringement of the dignity, liberty and integrity of women, having serious social, psychological and other consequences and therefore involving a serious violation of human rights.

Countries vary considerably in defining the nature of the act that constitutes rape or sexual assault. A number of jurisdictions, especially in the British Commonwealth, have widened the definition of rape, which traditionally has been limited to penal penetration of the vagina. For example, some countries' definition includes anal and oral acts of sex, while definitions found in other countries go further, to include the insertion of objects into specified orifices. These definitions seek to stress the demeaning and violent aspects of rape, rather than its sexual nature.

Research suggests that where a woman has to prove that she did not consent, it is often enormously difficult unless she shows signs of injury. If she knows or has had a prior sexual relationship with the accused, the task will be even harder. Some jurisdictions have created a positive statutory definition of consent, which requires consent to have been explicitly sought and given.

Other jurisdictions have attempted to shift the emphasis away from the victim's consent, thereby focusing on the offender's violence rather than on the woman's behavior. One statutory definition refers to sexual intercourse where the offender uses force or coercion (broadly defined) or the woman is incapable of giving consent. Another definition uses the concept of "inducing sexual connection by coercion", aimed at situations involving the victim's consenting because of the offender's position of power. Yet another definition has introduced the concept of coercion through non-violent threats which the victim could not reasonably be expected to resist.

Sexual Harassment. Sexual harassment is sexual attention which is both unwanted by the victim, and perceived by her as offensive or threatening. When sexual harassment takes the form of acts of violence, such as rape, sexual assault, indecent assault or common assault, it is a criminal offense in most cultures. Some countries also still have criminal penalties (ranging up to five years' imprisonment) for acts of sexual harassment which amount to unwelcome sexual advances or, in the older terminology, "outraging the modesty" of women. In one country's definition, it is an offense to insult the modesty of a woman, whether by word, gesture or act. Other countries use similar definitions.

Civil remedies are more common where sexual harassment occurs in the workplace, where the subordinate worker is vulnerable to exploitation by a superior. This suggests the need for Member States to examine the connections between criminal and employment law when reviewing the adequacy of responses, and to decide if the occurrence of the behaviour in the workplace is relevant to whether or not it is criminal in nature. Some countries provide

criminal sanctions for persons who abuse their authority to obtain sexual favours. In one Member State, sexual harassment is prohibited as any abuse of the subordination or financial dependence of an individual with a view to obtaining sexual favours outside of marriage. Some countries have also created special criminal laws to deal with sexual harassment in the workplace, and such legislation has been proposed in others. One statute defines “harassing another person” as the abuse of authority in the workplace through orders, threats and coercion made with the objective of obtaining sexual favours. Another Member State’s *Protection from Criminal Harassment Act* (1997) creates two new offenses and combines remedies from civil and criminal justice spheres. A similar approach is found in another country, which also places a preventive onus on employers to create safe working environments for women. The UN Special Rapporteur on Violence against Women has recommended the creation of a criminal offense of sexual harassment. These strategies specifically call upon states to ensure that individuals are prohibited or restrained, within the framework of their national legal systems, from harassing, intimidating or threatening women.

Trafficking in Women and Forced Prostitution. There is no clear definition of “trafficking in women” contained in international human rights instruments (the 1949 *UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* being the main one). Common elements to a definition include 1) the recruitment and/or transportation of women 2) for work or services and 3) for profit of the traffickers. There is lack of agreement on whether consent or coercion is a necessary element. Other relevant UN instruments include the *UN Convention on Transnational Organized Crime*, and the *Protocol on Trafficking in Women and Children*, which is in preparation.

Trafficking in women usually encompasses other problems, such as forced labour and slavery-like conditions, and often involves organized international criminal enterprises. It is also closely connected to the issue of prostitution, as one study reports that the majority of cases of trafficking in women is for the purpose of prostitution. The UN Programme of Action on the Traffic in Persons and the Exploitation of the Prostitution of Others recommend that the crime of trafficking should be defined to cover all forms of trafficking for the purpose of sexual and economic exploitation, such as prostitution, sex tourism, forced domestic labour, false marriages and clandestine employment. However, the definition should not be broad enough to include all aspects of illegal migration. The UN Special Rapporteur on Violence Against Women cited the recent definition of the one country as being a good example of a definition of trafficking in women that contains the elements of coercion, deception and abuse of authority. In this country, a person is guilty of trafficking “who induces another into prostitution by violence or an act of violence, or by threatening violence or an act of violence, or by using his ascendancy ensuing from an actual relationship, or misrepresentation, or who undertakes any action which he or she knows or could reasonably suspect may bring the other into prostitution”.

Most States indicate that they have criminalized trafficking in persons. However, it appears that while certain aspects of trafficking in women are criminalized, the provisions vary in

scope and coverage. Certain States have addressed the issue of trafficking by either criminalizing prostitution or imposing heavy regulations on the practice of prostitution.

Some States deal with trafficking through immigration or labour laws. In one country, the Constitution prohibits trafficking in human beings and forced labour. Other countries have similar legislation. A few countries have recently taken legislative steps to combat child sex tourism by criminalizing certain offenses committed abroad. Over twenty countries have extraterritorial legislation that can be applied to cases of sex offenders. Some States have a provision within their laws which extends their jurisdiction to acts committed by their nationals while abroad, regardless of local laws and customs. Others have amended their criminal or penal laws to include the specific crime of child sexual exploitation through “sex tourism” or “child prostitution”. Some have adopted new laws in order to deal with the eventuality of one of their nationals sexually exploiting a child while outside the country’s normal territorial jurisdiction.

Domestically, various approaches are used to deal with prostitution and procurement, ranging from criminalization, to regulation and normalization as an industry. Some countries create criminal penalties for the activities of prostitutes, pimps and customers. A new law passed in one Member State creates a penalty of up to six months for purchasing sexual services, noting that “it is not reasonable to punish the person who sells a sexual service. In the majority of cases at least, this person is a weaker partner who is exploited ...” Other countries regulate prostitution through health, zoning and other municipal or state licensing laws. Yet others, *de facto* or *de jure*, concentrate on the health and safety concerns of prostitutes without particular regulation. Finally, some countries and states recognize prostitution as an industry and concentrate on issues related to employment standards.

Pornography. Most countries do not have anti-pornography legislation as such, but rather, legislation against “obscenity” and “indecentcy”. In countries which do have such legislation, it has traditionally used definitions which focus on the effect on or harm to the customer who consumes it: corruption, depravity, appeal to prurient interest, etc. More modern approaches focus on the depiction of women and children, especially in degrading ways, on the resultant dehumanization of people as sex objects, and on material involving violence or the sexualization of children. Some countries follow an approach of civil censorship of a narrow range of materials involving sex coupled with violence, child pornography and bestiality. One Member State creates civil relief for women seeking action against publishers and distributors of pornography, based on grounds of harm. Many states have pornography legislation, many focusing on the production and distribution (but not necessarily the possession) of child pornography. In some countries, there have been proposals to ban certain pornography on the grounds of incitement to hatred and violence, along the model of racial hate propaganda laws.

The growth of a worldwide market in child pornography not only through published material but through computer disks and the internet has led to cross-national police and customs cooperation. The Committee for the Rights of the Child has called for countries to legislate

the criminalization of possession as well as the production and dissemination of child pornography. One country prohibits the making, printing, publication, possession, importation, distribution or sale of child pornography. Some States are experimenting with treating the production of child pornography as child abuse for purposes of individual prosecutions.

(iii) Violence by the State

Most countries have explicit legal protections governing women in detention, in armed conflict, and in refugee situations. In many cases, the violence endured by women in these situations is not a policy of the State or condoned by the State, but rather is committed by individuals, either acting on their own or acting in the belief that in the circumstances, they are unlikely to be punished for it. However, the involvement of State authority in, at the least, maintaining the conditions which indirectly permit such actions, has led the UN Special Rapporteur, among others, to preserve this category of violence against women as a valid classification for analysis.

Women in Detention. There are several UN instruments which have served as useful guidelines for domestic legislation respecting the protection of women in detention. These instruments reflect the subordination of imprisoned persons to the authority of those who detain them. This fact places a special duty on State detention authorities to be alert to and prevent the abuses which can occur, and underlines that detained persons are legally unable to consent freely to certain kinds of treatment. Further discussion of violence against detained women is contained under Section 9(f) of the *Strategies*.

The relevant UN instruments include:

- the *UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, which forbids any cruel, inhuman or degrading treatment or punishment;
- the *Standard Minimum Rules for the Treatment of Prisoners*;
- the *Basic Principles on the Treatment of Prisoners*;
- the *Code of Conduct for Law Enforcement Officials*; and,
- the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*.

Women in Armed Conflict. International humanitarian law (four Geneva *Conventions* of 1949 and the two additional *Protocols* of 1977) prohibits and provides the means to punish human rights abuses committed in war. However, where rape and other forms of sexual assault are explicitly mentioned in international humanitarian law, they were categorized as an outrage upon personal dignity or crime against honour. In the past there has been a failure to prosecute rape as a war crime.

More recently, as a result of the situations in the Former Yugoslavia and Rwanda by the establishment of tribunals to prosecute war crimes, international humanitarian law has developed in terms of dealing with rape in armed conflict situations. Although the Statutes establishing the tribunals are contextual and applicable only to each country, they are

important in that rape is recognized as a punishable offense as a war crime, a crime against humanity and a form of torture, and it has also been successfully prosecuted as intricately linked to genocide. The International Criminal Tribunal for Rwanda has defined rape and sexual violence in international law. Rape is “a physical invasion of a sexual nature, committed on a person under circumstances which are coercive”. Sexual violence, which includes rape, is considered to be any act of a sexual nature which is committed on a person under circumstances which are coercive. In September 1998, during the trial of an accused war criminal by the United Nations International Criminal Tribunal for Rwanda, the court ruled that “acts of sexual violence constitute genocide”.

It has been suggested that protections for women in situations of armed conflict should be interpreted as extending to situations including civil war, civil conflict, sectarian violence, extreme situations of community unrest, enforced peacekeeping situations, and even mob violence or vigilantism.

Women in Refugee Situations. Women and children may become refugees outside their country of origin – or within it, as in the case of “internally displaced persons”, who may suffer attacks of various kinds without the normal protection of custom and the state. Along with other refugees, women need protection against forced return to their country of origin, security against armed attacks, protection from unjustified and unduly prolonged detention, legal status that accords adequate social and economic rights, and access to basic items as food, shelter, clothing and medical care. Refugee women and girls have special protection needs that reflect their gender; protection from sexual and physical abuse and exploitation. The United Nations High Commissioner for Refugees has developed *Guidelines on the Protection of Refugee Women* and *Guidelines on Prevention and Response to Sexual Violence Against Refugees*.

(c) Firearms Restrictions

Section 6 (c) (i) of the Model Strategies urges Member States to review, evaluate, and revise their criminal laws in order to ensure that violent offenders can be restricted in their possession and use of firearms and other regulated weapons, within the framework of their national legal systems.

Violence against women, especially within the family, is often part of a long-standing pattern, not an isolated incident. Research on spousal homicide suggests that death is often the culmination of a series of previous violent encounters, some of which were the subject of a call to police. Some studies also suggest that women recently separated from their partners are at a much higher risk of being murdered. Since firearms and other weapons often play a part in this escalating violence, preventive efforts to restrict access to weapons take on a greater importance in these situations.

Police Powers. A number of countries have criminal law provisions which give law enforcement officials the authority to search for, seize, suspend licenses for, and temporarily or

permanently restrict the offender's ability to legally possess a firearm or other restricted weapon. These powers, which are discussed further in Sections II and III of this *Manual*, apply at various stages in the criminal process, such as at the time of the initial investigation, at arrest, at pretrial release, as a condition of sentence, or as part of a civil or criminal restraining order or protection order.

The Framework for Model Domestic Violence Legislation prepared by Women, Law and Development International suggests that part of the information which police should obtain in investigating a domestic violence complaint is the number and type of weapons used. In some States, police are empowered to seize firearms while responding to a domestic violence call. Firearms legislation in one jurisdiction permits police, when aware of a domestic violence situation, to search the premises for firearms and under certain conditions police are required to search for firearms and suspend the person's firearm license.

Prosecutorial and Judicial Powers. Where pretrial release is being considered in cases involving violence or threats, in some jurisdictions, the prosecution is instructed to ask both victim and accused whether the accused possesses a firearm; surrender of weapons and licenses may be made a condition of bail or release on recognizance. Draft amendments to one country's criminal code would also allow police to apply to a court to prohibit weapons possession in any circumstances where it is desirable to protect the safety of any person.

Protection and restraining orders generally are discussed below in Section II, in relation to Article 7(g) of the *Model Strategies*. Many countries and states give police or the judiciary discretion to seize weapons from accused who are subject to a restraining order in respect of a domestic violence situation, or to make it a condition of the order not to possess or purchase a weapon. In one Member State, it is a condition of every protection order that the respondent must not possess any weapon; within 24 hours of issuance of the order, all weapons and licenses must be surrendered to police. Currently, legislation is under debate in another country which would make it mandatory for police to confiscate weapons at the time a protection order is issued. A bill proposed in another jurisdiction would make it a first degree misdemeanor for anyone who has been issued a permanent injunction for domestic violence to carry a firearm.

Legislative and Administrative Approaches. In one area, convicted stalkers are forbidden to possess firearms; in another jurisdiction, persons convicted of domestic violence are forbidden, in certain circumstances, from possessing a firearm. Federal criminal law in one country outlaws possession of firearms by persons subject to a restraining order.

One country recently enacted regulations that now require applicants for a firearms license to disclose the name of their current spouse/common law partner or former spouse/common law partner (within the last 2 years) The spouse/former spouse may be interviewed by the chief firearms officer to assess any risk of harm relating to domestic violence before a decision is taken on the application.

Related UN Activity. At the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Cairo, 1995), Member States unanimously adopted a *Resolution on Firearms Regulation for Purposes of Crime Prevention and Public Safety*, urging the need for effective strategies to ensure the proper regulation of firearms and endorsed the establishment of a database on firearms regulation. A United Nations international study on firearm regulation was published in 1998.

II. CRIMINAL PROCEDURE

(a) Police Powers

Section 7(a) of the Model Strategies urges Member States to ensure that the police have adequate powers to enter premises and conduct arrests in cases of violence against women, including the power to seize weapons.

(i) The Power to Enter Premises

Much of the violence against women which occurs happens in the home. Despite research which indicates the frequency and seriousness of domestic violence, there are still jurisdictions in which police are reluctant to enter the “sanctity of the home” in order to intervene in a “private matter”. Challenges still occur to police’s authority to enter a home when one party clearly wishes it, but another does not.

General Powers. Virtually all common law jurisdictions give police the power to enter premises if one or more of the following conditions is present: (a) they are invited in by an occupant; (b) they have a warrant to arrest an occupant; (c) they have reasonable grounds to suspect that a breach of the peace is occurring; or (d) they have reasonable grounds to suspect that an offense is being committed or is about to be committed. In the wording of one country’s criminal procedure, police may enter without a warrant for the purpose of “saving life or limb” or “preventing serious damage to property”. The power to enter premises is limited following well-established civil rights that exist to prevent unjustified or arbitrary rights of entry by police. Yet at the same time, the safety of the victim depends upon police being able to gain entry. Some countries have codified police powers of entry in their criminal procedure legislation while other countries issue specific guidelines to assist police when dealing with certain types of cases, such as domestic violence.

Specific Legislation to Deal with Domestic Violence. In some jurisdictions, this power of entry has been explicitly expanded to deal with domestic violence situations. In one country, newly defined police powers allow entry without a warrant where they reasonably believe that a domestic violence act is imminent, is being committed, or has recently been committed. Police may enter, even if expressly forbidden by one occupant, if the apparent victim invites

entry. Furthermore, the police may obtain a warrant almost immediately by contacting a “stipendiary magistrate” over the police radio.

While this strategy urges States to ensure police have “adequate power” to intervene in violence against women cases, there also must be effective training and monitoring of police in such intervention. The safety of the victim depends not only upon police being able to gain entry, but also on police’s awareness of the potential gravity of the situation, motivation to intervene, and the conduct of police once they gain entry.

(ii) The Power of Arrest and Charging

Arresting and removing the offender from the premises, rather than issuing warnings or summonses to appear later in court, can mean the difference in the outcome of a violent dispute. The power to arrest varies in different jurisdictions. Many countries with a strong legal tradition of individual rights prefer the use of warrants and the issuance of a summons to on-the-spot arrest and detention, unless there is some urgency to the situation or police believe there is a danger of further breaches of the peace.

Presumptions in Favour of Arrest. Typically, these same rules apply in cases of domestic violence. However, in certain countries and municipalities, a stronger presumption in favour of arrest in domestic violence situations now exists, based on the need for a stronger message to the offender as well as on evidence of ongoing danger to the victims in many cases. One large urban police force issued an order in 1987 encouraging the use of arrest in domestic violence cases; this order followed the 1984 reforms to the *Police and Criminal Evidence Act*, which allows arrest, even in the absence of an offense, to ensure the protection of a child or any vulnerable person. Another police service in a different country has a similar policy emphasizing the protective role of police. In some jurisdictions, arrest is mandatory in the case of assault or threats of serious injury. Yet another country allows police to remove the offender for a period of up to seven days, which may be extended by application to a court.

Research concerning the long-term effects of arresting domestic violence offenders has produced contradictory results. Sherman and Berk (1984) found that domestic assault offenders had a lower repeat-incidence rate when they received counselling than when they were separated from their victims, but formal arrest was even more effective. However, subsequent researchers have had difficulty replicating this finding (e.g., Garner, Fagan and Maxwell, 1995).

Charging. In many States, mandatory arrest policies are coupled with policies favouring the laying of a charge. Subsequent research suggested that the victims were at greater risk of renewed assault or threats if charges were not laid. Since 1983, police in one country, in areas where police (rather than prosecutors) have responsibility to lay charges, have been directed to lay charges in all cases of domestic violence, where there is evidence indicating an offense occurred, even over the objections of the victim or her non-cooperation. Many other jurisdictions follow the same policy.

Developments regarding the seizure of firearms and other weapons are reviewed in the discussion of Section 6(c)(i), above.

(b) Prosecutorial Power

Section 7(b) of the Model Strategies urges Member States to ensure that prosecutors must take the primary responsibility for initiating prosecutions, and not the women subjected to violence.

This Section recognizes that in the past and still in many jurisdictions, violent acts against women were and are often treated as a private matter. This practice differs from the treatment of other crimes, which are considered to be of sufficient concern for the state to initiate prosecution, on behalf of the victim and all of society. In part, this past practice was a response to traditions regarding the rights of male family members and the ownership of women. It also reflected the fact that women, especially in domestic situations, are often reluctant to cooperate if it means seeing their partners prosecuted and jailed. Placing the responsibility to proceed squarely with the prosecutor is also intended to protect the victim from retaliation by the offender by removing from the victim the apparent choice of laying or dropping criminal charges. It is important, where prosecutions may proceed against victims' wishes, that adequate support be provided to the victim and that police and the prosecutors are well trained in the nature and dynamics of this kind of violence. It should also be recognized, however, that the success of this approach may become highly dependent on prosecutors' ability to develop separate evidence of the crime, independent of the victim's testimony. (See Section III for further discussion of this issue.)

Who May Lodge a Complaint. National legislation provides for various avenues whereby different persons can lodge a complaint of domestic violence. In all cases, the victim may make such a complaint. Under some laws, the police may file a complaint on behalf of the victim. One country allows associations which fight domestic violence to bring forth complaints. A few countries allow an agent for the victim to apply for the lodging of a complaint. In one Member State, the law includes a long list of eligible complainants, including police, family counsellors, welfare officers, doctors and committee members of the Association for the Prevention of Domestic Violence. Another country includes virtually all judges. For cases involving children, most laws allow a broader cross-section of people to lodge complaints, including social workers and educators. In a few countries, legislation requires such complaints to be filed directly in court by the victim or other interested party. Most laws require that an application be heard within a brief period after filing.

Prosecutorial Authority to Lay and Drop Charges. In some countries, the rules governing prosecutions ensure that prosecution of assaults is not dependent on an accusation by the victim. In some jurisdictions, prosecutors are also instructed not to make judgments based on the woman's "previous character". In 1983, the provinces of one country agreed on a uniform

policy which places the responsibility for decisions about prosecuting spousal assault with provincial prosecutors.

This same policy instructs prosecutors not to discontinue cases if the only reason to do so is the reluctance of the complainant. Some jurisdictions have adopted prosecution policy and guidelines which allow for discontinuance of domestic violence proceedings only after careful consideration of the offices protocols for reviewing domestic violence offenses. In some jurisdictions, prosecutorial offices will drop charges only in exceptional circumstances, such as danger to the victim. Some offices require prosecutors to record their reasons for dropping charges. In other jurisdictions, the victim must appear before a judge to explain why the charges should be dropped. Some jurisdictions use victim service workers to support and encourage victims to cooperate in prosecution (see Section V, below).

Some jurisdictions have adopted mandatory prosecution policies which leave little discretion to the State in proceeding with domestic violence cases. While these policies have their advocates, they have also been criticized for further disempowering victims and discouraging more broad-ranging approaches to stopping the violence. Mandatory prosecution policies may be most effective where there is an infrastructure of services available to assist victims and where a broad range of appropriate sentencing options is available to the offender.

Specialized Prosecutorial Teams. Some jurisdictions will assign specialized prosecutorial teams, who are specially trained to understand the dynamics of violence against women and the best approaches to dealing with such cases in the courts. For example, one country's specialized prosecutorial teams deal exclusively with sexual offenses, and a 30% increase in the conviction rate has been observed since their introduction. The court is assisted by a permanent social worker or victim support coordinator, who refers victims to specialized counselling and other services. Similar approaches to specialized prosecution are seen in several other countries, where female prosecutors are the rule.

Other jurisdictions will "fast-track" domestic violence cases in order to speed up the process and reduce trauma to the victims, or have established special family violence courts for ensuring consistent, timely and effective prosecution and disposition of spousal assault, child abuse and elder abuse.

(c) Testimony of Women in Court

Section 7(c) of the Model Strategies urges Member States to ensure that women subjected to violence have an opportunity to testify in court proceedings equal to that of other witnesses, that testifying be made as painless as possible, and that women's privacy be protected as much as possible.

This section requires Member States to ensure that rules of evidence and criminal procedure do not discriminate against women. Examples of such discrimination might be in the weight given to the testimony of women as compared to men, or in allowing restricted evidentiary

rules that disproportionately apply to female victims of violence. Section 10(d) of the *Model Strategies*, discussed below, deals with gender-sensitive court procedures which are designed to alleviate the special difficulties faced by women and girl children in court processes.

Section 7(c) of the *Model Strategies* also calls upon Member States to introduce measures to facilitate women's testimony and protect their privacy. Victims in criminal cases frequently refer to the trial experience as one of being "victimized again", and this Section is undoubtedly aimed at improving this situation. A number of jurisdictions have introduced victims' rights legislation which is designed to help victims of all kinds of criminal cases to prevent or alleviate some of the more taxing elements of the criminal process.

In one Member State, the *Victims of Offenses Act* (1987) directs prosecutors, judicial officers, counsel, and other persons to treat victims with courtesy, compassion and respect for their personal dignity and privacy. Victims are to be informed of the services and remedies available to them and the conduct of the proceedings. They are to be protected from intimidation, their views as to bail and any fears they have respecting the offender are to be shared with the court, and they are to be informed of the escape or release of the offender.

Various innovations to the processes of testimony have been introduced in a number of countries, applying particularly to cases involving charges of sexual assault. These include closing the court to the public; allowing a support person to accompany the complainant in court; permitting the use of a screen between the victim and the accused that allows the accused to be unseen by the victim but allows the victim to be seen by the court; allowing testimony *via* closed-circuit television; preventing in-person cross-examination by the accused; as well as innovations aimed more generally at assisting disabled persons to testify and providing more extensive interpretation and translation services.

Children's Testimony. The particular vulnerability of children has led some jurisdictions to create laws and procedures which are better suited to their special needs. The UN Commission on the Prevention of Crime and Criminal Justice's *Resolution on the Administration of Juvenile Justice and Guidelines for Action on Children in the Criminal Justice System* recommends that Member States who have not already done so establish a code of proper practice for management of cases involving child victims. Among the provisions recommended are specialized prosecutorial offices, special provision for advocacy and counselling, and special assistance in the judicial and administrative processes, including the avoidance of direct contact between children and offenders during the criminal process, child witness preparation schemes, and the admissibility of videotaped evidence.

Some countries have legislated to make the giving of evidence easier and safer for some victims, especially children, such as through the use of videotaped evidence, live video links to the courtroom, *in camera* hearings, exclusion of the press, protection of the identity of the victim in press reports, removal of the accused during testimony, and limits on the number of persons allowed in court during the testimony. In some countries, legislation further allows

children to testify with a support person present and prohibits their personal cross-examination by an accused in cases that involve certain types of offenses.

In one city, a special court designed to deal with sexual offenses uses specially trained prosecutors, support workers, and has a private waiting room with toys for children. In another country, the Victim-Friendly Court deals principally with children under 17 who have been sexually abused; victim-witnesses are permitted to give testimony in a private setting, via closed-circuit television. In yet another Member State, a videotaped description of an act of child sexual abuse may be admitted in evidence if the victim or witness providing it was under 18 at the time of the offense. Following a highly publicized court case, one country has enacted legislation that restricts the circumstances in which the defence may have access to the personal records (such as psychological or counselling records) of a victim of sexual assault.

Some critics have called for more extensive measures to protect child and other witnesses from adversarial and aggressive examination.

Corroborating Evidence. Another issue of key importance with respect to the testimony of women in violence cases is the evidentiary rule of corroboration in sexual offenses. That is, some jurisdictions require that an accusation of sexual misconduct be corroborated by evidence other than the victim's testimony. In other jurisdictions, the judge's instructions to the jury must include an admonition that conviction would be unwise if it were based solely on the victim's uncorroborated testimony. Many countries have entirely eliminated or substantially softened these evidentiary rules. One Member State retains the rule of corroboration, but the *Violence in the Family Act* states that reporting the offense to police, a family counsellor, welfare officer, doctor or significant other within 24 hours constitutes corroboration.

Evidence of Past Sexual History. Another issue affecting women's testimony is the evidentiary rule of past sexual history. Many countries allow the introduction of evidence of the woman's past sexual history with partners other than the accused, in order to suggest conclusions about her veracity or likelihood of consenting to intercourse. Other countries have introduced "rape shield laws" – legislation which limits the introduction of such evidence to instances where, in the discretion of the judge, it is considered unfair to the defendant to do otherwise. A few jurisdictions prohibit evidence of sexual reputation and limits evidence of sexual history to a very narrow range of circumstances.

Spousal Immunity and Compelling Spousal Testimony. Spousal immunity – the doctrine that no one may be compelled to testify against his/her spouse – has in the past formed part of the rationale for treating domestic violence as a private matter. Various jurisdictions have introduced legislation to empower prosecutors to compel spousal testimony, and case law in many other countries is moving in the same direction. The practice is not without its critics, however, since the "remedy" for refusal to testify when compelled is for the victim to be sanctioned for contempt of court. Complex factors affect the victim's willingness to cooperate

with the criminal justice system. In one jurisdiction, policy promotes rigorous prosecution of these offenses, but also outlines factors which may tend to re-victimize the woman so that in administrating the policy an appropriate balance can be struck between the interests of the victim and the criminal justice system.

(d) Defenses

Section 7(d) of the Model Strategies urges Member States to eliminate inequalities in how men and women are able to defend against criminal charges, and to ensure that such defences as “honour” or “provocation” do not allow perpetrators of violence against women to escape all criminal responsibility.

Traditionally, certain defences have been available to male accused which have lessened their legal responsibility for the act, or their punishment. Women have not had equal access to some defences (such as self-defence) and other defences have acted to the advantage of men (such as honour). This section of the *Strategies* is intended to eliminate those defences which are rooted in notions of unequal roles of men and women in society, and which have absolved men of responsibility.

Honour Defence. The honour defence equates a wife’s adultery, or alleged adultery, with a physical act of aggression, providing a full defence to the charge. In one country, the high court in 1995 overturned several cases of acquittal on the grounds of the honour defence. However, this has not had a consistent effect on decisions of the lower courts.

Provocation Defence. Under the provocation defence, the words or actions of the victim may be used by the accused to suggest that they provoked a sudden and temporary loss of control, and that a reasonable person would also have been provoked in the same way. To the extent that this defence has been more available to men to obtain acquittal for acts of violence allegedly beyond their control because of the provocative acts of women, it is considered discriminatory. Erosion of this defence has occurred through judicial rulings in some jurisdictions which have prevented a jury from considering it in cases where there was a delay between the provocation and the offense. One country’s *Penal Code* explicitly states that “emotion or passion does not exclude criminal responsibility”, but violent emotion resulting from provocation just before a homicide or attempted homicide will reduce the charge and the available penalty.

Self-Defence. In some countries, experts identify two areas of difficulty with existing homicide laws. One is the frequency with which men have successfully invoked the provocation defence when charged with killing their partners. The second area of concern is that the defence of provocation is rarely available to women who kill defensively in the context of domestic violence. This latter concern is particularly significant in view of research suggesting that domestic homicides are often the culmination of serial violence between the parties. In one country, a women’s lobby group assisted women in a series of cases to successfully appeal convictions of murder and have developed a proposal for a partial defence,

based on the concept of “self preservation”, which is structured around the gendered nature of domestic homicide. In some jurisdictions, in cases where women are charged with homicide of an abusive partner, it is acceptable to introduce evidence concerning a history of battering and its effects in building an argument of self-defence.

(e) Voluntary Intoxication

Section 7(e) of the Model Strategies urges Member States to ensure that it is not possible to escape all criminal responsibility for acts of violence against women as a result of having been voluntarily under the influence of alcohol or drugs at the time.

Alcohol is often a factor in cases involving violent conduct. In many jurisdictions, intoxication is a mitigating factor in the laying of a charge and at sentencing. This section of the *Model Strategies* is aimed at making voluntary (self-induced) intoxication unavailable as a complete defence (leading to acquittal) to a charge of violence against women. Some argue that alcohol should not be a defence at all. In any case, most critics feel that it is important to start from the premise that alcohol does not cause the violence. The South Pacific Commonwealth Commission and the World Health Organization have advocated that governments should actually treat intoxication at the time of the offense as an exacerbating factor and provide for stricter penalties in such circumstances.

A 1995 amendment to one country’s *Criminal Code* made self-induced intoxication unavailable as a defence in violent crimes on the basis that the accused was incapable of forming criminal intent. The law in two states within another country now states that voluntary intoxication is not a defence, but in others, evidence of temporary insanity caused by intoxication may be used to mitigate punishment. In a third Member State, the revised penal code considers intoxication of the offender as a mitigating circumstance in most cases. However, if the intoxication is habitual, it is to be considered as an aggravating circumstance.

(f) Prior Acts of Violence

Section 7(f) of the Model Strategies urges Member States to ensure that evidence of prior acts of violence, abuse, stalking, and exploitation by the accused is considered during court proceedings.

Most countries limit the introduction of evidence of prior acts of violence to the sentencing stage of court proceedings, unless it can be shown that prior acts involve a similar pattern of facts to those being alleged in the current prosecution. Thus, evidence of other crimes may be admissible to show motive, identity, pattern, scheme, *modus operandi* or absence of mistake. However, prior acts may not be used only to demonstrate character or propensity.

Evidence of prior acts can be crucial in sexual assault trials, where physical evidence may be ambiguous and there are rarely any witnesses, and the focus thus tends to fall on the credibility of the victim. Under new federal rules of evidence in one Member State, evidence

of the commission of prior (even uncharged) acts of sexual assault, including child molestation, is admissible and may be considered for its bearing on any matter to which it is relevant. Similar legislation exists in one state within that same country.

(g) Protection, Restraining and Occupation Orders

Section 7(g) of the Model Strategies urges Member States to ensure that the courts have the authority to issue protection orders in cases of violence against women, which order the perpetrator removed from the home, prohibit further contact with the victim and others, and impose penalties for breaking the order.

Authority to issue protection or restraining orders comes under both criminal and civil law in most jurisdictions. While this strategy falls under criminal procedure, there is overlap in many state's terminology on protection or restraining orders. These types of orders are usually classified as quasi-criminal, as the process may be criminal but the standard of proof is lower or the process is civil but a breach is a criminal offense. A great deal of variation is seen in different Member States regarding these types of orders.

One Type of Such Orders is initiated in a criminal court, but the standard of proof for issuing them is lower than in a criminal trial. One country has recently strengthened its "peace bond" provisions, such that an individual, or a parent or spouse, may appear in a summary conviction court, which has the power to issue an order, if satisfied that the person has reasonable grounds to fear personal injury or damage to their property. Under this statute, an order:

- can last up to twelve months,
- requires the subject to keep the peace and be of good behaviour,
- may carry conditions including not to possess a firearm, not to communicate with the individual in question, and to keep a specified distance from places they frequent, and
- may bring imprisonment for up to twenty-four months for failure or refusal to agree to the order.

Similar provisions exist in most other jurisdictions; breach of some orders may bring forfeiture of a sum of money.

A Second Type of Such Orders involves applications which originate in a civil court, (normally under provisions of family law), but a breach of conditions is a criminal offense. If police have reasonable grounds to suspect a breach of the order, usually they may arrest without a warrant. Two Member States, in their recent domestic violence legislation, consider a breach of a protection order (civil) to be a criminal offense even if the conduct itself would not normally attract criminal sanctions. The duration of orders varies greatly; in some countries, interim (*ex parte*) orders may last only 14 days, but in most countries, they may be much longer. In some countries, the procedure is formal, expensive, and normally requires a lawyer; in other jurisdictions, it is much quicker and easier. Most countries allow applications to be made solely on the basis of affidavit evidence. A wide variety of conditions may be imposed in different countries, including:

- non-contact,
- reimbursement of damages,
- child custody, access and maintenance, and
- non-possession of firearms (mandatory in one Member State).

Breach of conditions is punishable, often by fine; in one country, fines may be linked to compensation to victims for certain offenses.

A Third Type of Such Orders, are a civil remedy, usually considered in conjunction with a related application, such as divorce or a civil suit for battery. They are issued on the basis of a balance of probabilities. Some jurisdictions have revised their laws in order to allow applications for injunctive relief in the absence of other legal actions. The available conditions on injunctions will vary widely with each case.

Emergency Orders. Several provinces within one Member State have enacted civil legislation relating to victims of domestic violence, which offers an alternative form of protection to victims who do not want to go through the criminal justice system. Emergency Protection Orders can be obtained by police officers at the scene, on a 24 hour basis, by telephone request to a Justice of the Peace. This order may include provisions such as no contact, granting the victim exclusive occupation of the family home, regardless of ownership, or a direction to police to seize any weapons. These orders are not intended to replace criminal charges and may be issued on their own or in addition to criminal charges.

Some critics note a word of caution in over relying on the use of protective orders as the primary vehicle for ensuring the safety of the victim. Research shows there is limited value to these orders if there is not a strong response to breaches, which are common.

(h) Safety of Victims Measures

Section 7(h) of the Model Strategies urges Member States to ensure the safety of victims and their families and to protect them from threats and retaliation.

A number of the protections available in most countries have already been discussed above, and others are discussed in later sections. Women and their families are often at greatest risk of violence after their departure, or the offender's forced departure, from the family home. Organized trafficking in women utilizes, as one of its most powerful tools, intimidation of women who could serve as potential witnesses in a criminal action. Justice officials need to be aware of this fact and take steps to safeguard women and family members in these situations. Special police protection and witness protection programs are normally available only in a very few cases, and usually against high-profile offenses such as those involving organized crime. Women's and children's shelters are also a necessary feature, but one which is overburdened to help more than a small minority of most potential clients, even in relatively well-resourced jurisdictions.

In one country, new rules of criminal procedure were designed to provide courtroom protections for witnesses in organized crime cases, but can be extended to all serious cases. Specialized courts often provide private waiting rooms for victim-witnesses in order to separate them from contact with the offender and his family. In another country, a court in one city which specializes in sexual offenses provides a waiting room and toys for children. A city in another Member State has as part of its service the Women's Advocacy Program, which focuses primarily on the safety of the victim. Three social workers and a lawyer provide support, short-term counselling, information and referrals to victims of assault, while Crown prosecutors vigorously pursue enforcement of the law. Some prosecutorial policies promote the laying of additional charges against offenders who threaten victims during criminal proceedings.

In one province in the same Member State, a joint effort among police, NGOs and private corporations provides women who are at high risk with a mobile security alarm which alerts police when she is in danger as well as providing cell phones to increase women's safety while traveling to work, school or leisure activities. In a city in another country, jailers are required to record and notify victims of all threats made against them by detained offenders; an emergency response procedure is also available for assembling the child protection worker, police officer, shelter advocate, and probation officer to allow them to consider alerting the sheriff's warrant division in cases of immediate danger to the victim.

(i) Release Decisions

Section 7(i) of the Model Strategies urges Member States to ensure that safety risks to the victim are taken into account in decisions about sentencing, the granting of bail, or the offender's release from custody.

In most jurisdictions, a person who has been arrested may be released on bail or recognizance, either by the police or by a judicial officer. This can be a dangerous time for the victim, and it is essential for the police or prosecutor to be aware of and present or consider all the relevant facts concerning the accused's risk, to give the victim prior warning of the accused's impending release, and to impose appropriate conditions on the release.

Among the examples found around the world for structuring decisions in order to take into account the risks to the victim are the following:

- in most jurisdictions in one Member State, police have the power to release the accused prior to trial; however, they are required to balance the accused's right to freedom with the victim's need for safety by attaching conditions to bail orders;
- in one such jurisdiction, a special bail form is used in domestic violence cases, containing conditions such as no-contact orders and abstention from alcohol;
- another country's legislation requires prosecutors to convey to the judicial officer any fears held by the victim concerning the pretrial release of the offender;

- the law in yet another country requires the judicial officer to consider a firearm prohibition as a condition of bail release for any offense involving violence, threats or stalking;
- the police policy on domestic violence in another country states that police should not decide on pretrial release because the likelihood of further victimization is too high; rather, the decision is put to a court, which must consider the views of the victim and family concerning release and the conditions on it;
- in another country, the federal legislation governing conditional release requires the parole board to make protection of the public the paramount consideration in conditional release decision-making and thoroughly assess the risk posed by the offender upon release; and
- there is also the new computer-automated VINES (Victim Information Notification Everyday System) system operating in at least one country and being developed in others to inform victims of release decisions.

As with all measures which are directly aimed at the safety of victims, it is essential that there be ongoing monitoring and evaluation of the effectiveness of these measures. Such evaluation is more common in correctional (post-conviction) spheres (which tend to show that the system generally distinguishes between lower-risk and higher-risk offenders), and relatively uncommon in other sectors.

III. POLICE

(a) Consistent Enforcement

Section 8(a) of the Model Strategies urges Member States to ensure the consistent enforcement of crimes and to ensure that all criminal acts of violence against women are recognized and responded to accordingly.

As the initial point of contact between most victims and the justice system, police play a pivotal role in ensuring an effective and consistent response to violence against women. Police also play other important roles besides enforcement, including assisting communities to organize for prevention efforts, protecting victims, and providing support services to victims. Relationships which police are able to form with community members can also strongly influence the extent to which victims actually report violent incidents to the police. Research suggests that there are many reasons that the rate of reporting such crimes is so low, including cultural factors, but police resources, response and supports to victims can also play a major role. To some extent, proper training of police (discussed in Section VII) will address many of the current challenges of ensuring a full range of police services, including consistent enforcement of offenses against women. However, much can be done in law and procedure to clarify grey areas, outline police authority and responsibility, and establish the importance of effective action against gender crimes.

Research on the justice system's response to violence against women, and domestic violence in particular, suggests that certain difficulties are common to many jurisdictions, including:

- police's failure to take these cases seriously, recognize its severity and repetitive nature;
- lack of special training in domestic violence issues for police, including awareness of risk factors, severity and prevalence issues;
- inadequate attention to the immediate safety of the victims and their continuing safety;
- lack of information-sharing among police (i.e. in "flagging" at-risk households for appropriate future response), and between police and prosecutors;
- failure to obtain and preserve evidence and testimony which would corroborate victims' version of events;
- non-enforcement of restraining orders, interim release orders, and other measures designed to protect victims prior to and after disposition; and
- inadequate cooperation and collaboration between police and other services.

Investigation. One approach to achieving consistent enforcement of violence against women cases is to require police to conduct a full investigation into these incidents, which in the past many police forces have treated as less serious, less of a public concern, and difficult if not impossible to prosecute successfully. Clearly defined police powers contained in written policies can be made known to all police and the public, and then be used to develop protocols and guidelines to ensure consistent enforcement. Key areas in which guidelines may be useful include: how to handle calls relating to specific types of violence against women; interviewing victims by patrol officers; guidelines for investigation; and protocols for supervisors to ensure consistent compliance.

A model protocol for police handling of domestic violence in one jurisdiction states that such situations are to be treated as high risk. For reasons of safety and privacy, victims are to be taken aside and interviewed apart from the assailant, witnesses and bystanders. In another Member State, a policy directive establishes that only women police officers handle rape cases. Other countries have established specialized units of women only officers to enhance consistent police response. However, research indicates that it is the attitude of the police officer, not their gender, that makes for a good investigator and support to the victim.

Arrest and Charging. Whether or not arrest should take place in domestic violence cases is addressed in one country's national wife assault charging policy. Arrest is encouraged in cases where grounds for arrest exist. Consideration of the recurrent nature of domestic assault is required in decisions regarding pretrial release. Many jurisdictions have adopted a proactive charge policy which requires the investigating police officer to submit a report to prosecutors recommending that a charge be laid by the prosecutor in every instance where there is evidence that an offense took place, even if there was no injury and regardless of the desires of the victim. The policy discourages the diversion of domestic assault cases out of the prosecution process, and states that neither the offender's state of intoxication nor the victim's refusal to give a written statement should discourage the laying of charges. The policy also calls for expeditious prosecution of such charges. Several jurisdictions have a policy which instructs police to lay charges wherever the evidence permits, thus lifting the onus from the victim to seek charges.

Monitoring and Accountability. International Women, Law & Development's model legislation on domestic violence suggests that each country should compile an annual report to Parliament on the subject, based in part on offense reports prepared by police. Some countries have established monitoring committees to ensure consistent enforcement of domestic violence offenses in particular. In one Member State, there is a multidisciplinary advisory committee of members selected from the private and public sectors for their knowledge and experience in related health, law enforcement, and social welfare areas. The police service in another country has recommended high-level monitoring and supervision within the police in order to ensure consistency. Local co-ordinating committees, which can include representatives from all the justice system plus health, social services and non-government organizations, are useful accountability mechanisms. Some committees discuss

specific cases, others focus on issues facing the community in terms of consistent response. In one jurisdiction, an action committee developed Intervention Guidelines which include training, monitoring and sustainability components.

Legal Counsel for Victims. Another method of ensuring consistent enforcement is established in some Member States, where the state pays for legal counsel for victims of all sexual crimes, who can then act as monitors of their own cases.

(b) Investigative Techniques

Section 8(b) of the Model Strategies urges Member States to develop investigative techniques that do not degrade women subjected to violence and minimize intrusion, while maintaining standards for the collection of the best evidence.

Specialized Investigative Units. Special police desks, units and even stations have increasingly become a means of refining police methods for cases involving violence against women and domestic violence in particular. In some Member States, special police stations have been established which use female officers exclusively in order to handle gender-specific crimes and to provide psychological and legal counselling. One country now has 152 all-woman police stations which specialize in violence against women. However, questions have been raised about the effectiveness and isolation of some of these all-women police stations from mainstream policing.

In larger centres in one Member State, all-woman police units have been established to investigate dowry and harassment complaints to advise whether further police action is required. Another country has women-only rape squads, and only female officers are to deal with rape cases. Yet another Member State has separate areas in many police stations for taking reports on domestic violence, rape and other such offenses. Police in other jurisdictions established a domestic violence and criminal harassment unit in 1994 to develop recommendations regarding stalking and other forms of criminal harassment. Other police forces have a special unit to investigate sexual and domestic assault.

Multidisciplinary Teams. Some countries have multidisciplinary teams of police and social workers who work closely with the victim and offender early on in the process. Others have specialized teams to deal with crimes of particular interest to women. Some countries use sexual assault centres to deliver integrated responses to incidents. One country uses a team of four support workers who follow up on police responses; these workers, who are not regular police members, are available 16 hours a day. In another jurisdiction, death review teams are established in cases where there has been a history of domestic violence and a death occurs.

Specialized Sex Crime Units and Procedures. The quality of police work in taking statements from victims of sexual assault can be a determining factor in the success of a prosecution. Some larger municipalities are able to refer such cases to a specialty team

immediately. In a large city in one Member State, a hospital-based “one-stop” centre provides for a single interview with the victim by a combined team of police, medical and other professionals. In another country, the first officer on the scene in such cases asks no delicate or personal questions, and awaits the arrival of a specially trained investigator. A “victim care” package is available in some pilot police locations in this same country, containing toilet articles for use after examination. In some jurisdictions in another country, the policy is for front-line police to conduct a preliminary interview, while a lengthier one is done by a specially trained female officer. These interviews, and physical examinations, are usually done in specially furnished “rape suites”, separate from the main police station, where the environment is designed to be more comforting. Accused are not interviewed at the same location while the victim is there. In yet another country, police in some small, remote Indigenous communities have tried to find office space in the same building as social service or other agencies in order to protect women who may not wish to be seen entering a police building.

“Rape kits” have been developed in many Member States to ensure that police and medical personnel collect all necessary physical evidence and preserve it properly, as well as to provide information to the victim about procedures, victim services and what to expect during the criminal process. As in most of all the strategies, an important component is education and training. Police investigators should have specialized training in the collection of evidence required, as this would assist the prosecution of cases where the victim may be reluctant or afraid to testify.

(c) Police Procedures and Safety

Section 8(c) of the Model Strategies urges Member States to ensure that police procedures and decisions take into account the need for safety of the victim, family members and others, and that these procedures also prevent further acts of violence.

This section of the *Model Strategies* is aimed at ensuring that victim safety, and the safety of others, are considered in decisions made by police about arresting, detaining and releasing the accused. Necessarily, this means that police and others who make these decisions understand the dynamics of such cases and have information relevant to this aspect, including information about any history of violence by one party against the other, recent or past threats, the possession of firearms, and so forth.

Among the innovative approaches found in countries around the world are the following:

- some police forces have developed forms for use by police officials which ensure that they seek all the necessary information before making release decisions;
- some jurisdictions allow police to tap into computerized data bases which contain information on existing no-contact conditions which have been placed on bail, probation, civil restraining orders and peace bonds. In one jurisdiction, policy states that if police find information suggesting conflicting conditions on different orders, they are to proceed on the basis of the most restrictive order;

- in one city in another Member State, officers at police lock-ups must record all threats or violent outbursts made by the accused while detained;
- another approach is to permit pretrial release of the accused after a delay or under specific conditions designed to protect victims. In one jurisdiction, the *Bail Act* allows detention of the offender for a brief “cooling off” period;
- the same Act permits bail conditions such as avoiding contact with both the victim and alcohol; breach of these conditions allows the police to make an immediate arrest. Previous breaches of similar bail conditions may provide grounds for refusing bail; and
- numerous jurisdictions require police or other authorities to inform the victim of the accused’s impending release and any conditions which may have been imposed on it.

Critics have noted that too often, women and children, rather than the offender, are forced to leave the home or the jurisdiction. This places an enormous burden on the victims to deal not only with the violence, but also with finding housing and economic resources, since it is the offender who is often the economic provider for the victim. Safety and support systems are needed by the victims, including those which may be found in kinship and clan networks. However, special attention must be paid to the tendency in some cultures for these networks to place pressure on victims to reconcile and return to the conditions which originally gave rise to the violence.

Policies Specific to Particular Offenses. In some jurisdictions, police are bound by legislation which directs the criteria for arrest and release in certain cases of special interest to women. In one jurisdiction, for example, a 1980 domestic violence law expands police’s authority to arrest on the basis of probable cause, prohibits police from issuing a citation to and releasing domestic assaulters, and requires police to provide information to victims about available services and the justice procedures which they may expect. In another Member State, police policy provides that arrest of a domestic violence suspect should always take place where there is evidence to believe that a previous order for the protection of the victim has been broken. “Station bail” – release shortly after arrest – is discouraged in view of the likelihood of intimidation of the victim. Police are instructed to provide victims with information on services and the available civil remedies, and must follow up on the case within a specified time.

Technological Advances. In some jurisdictions, police have partnered with various agencies in the community to develop procedures that specifically address the issue of safety of the victim. The DVERS (Domestic Violence Emergency Response System) is a partnership between a broad-based community coordinating committee, a security alarm business, and the police. This program provides a security alarm at no cost to women who are deemed to be at high risk. Other communities have similar programs, some using the telephone system.

(d) Prompt Police Response

Section 8(d) of the Model Strategies urges Member States to give police the capacity to respond promptly to incidents of violence against women.

Police powers in most jurisdictions are created in laws which apply in a general fashion to arrest and entry. The model framework developed by Women, Law and Development International recommends that police respond to every request for assistance, and not assign a lower priority to assaults which occur in the family. Criteria are suggested for identifying circumstances requiring immediate response. It was noted in Section II that in some jurisdictions, police powers of entry have been expanded to allow police quicker access to premises when they believe violence has occurred or is about to occur.

In one Member State, the policy on domestic violence intervention recognizes the vulnerability of victims in domestic violence situations and the need for prompt police action. The removal of the assaulter from the premises is recognized as an important objective.

Women's groups have been critical of police response to acts of violence against women. Any development of strategies and policies should preferably be made in collaboration with women's advocacy groups. It is also recognized that in some situations, police have the power to respond promptly, but not the resources or in some cases, the motivation to enter certain areas or premises. In other areas, victims do not have the means to contact police quickly, and police do not have the means to travel to victims quickly.

(e) Accountability of Police

Section 8(e) of the Model Strategies urges Member States to ensure that the exercise of police powers is undertaken according to the rule of law and codes of conduct, and that the police may be held accountable for violating these standards.

Codes of conduct for police are in place in many Member States, some of them inspired by the *UN Code of Conduct for Law Enforcement Officials* and the *Code of Conduct for Public Officials*. Provisions may be contained within the criminal law and criminal procedure of a country, and some will appear in internal codes of individual police forces or associations. For example, the International Association of Law Enforcement Intelligence Analysts developed a Code of Ethics in 1998. In one country, the National Standards and Management Department of the Police Services is in the process of developing national standards and a code of practice for police in dealing with victims of sexual violence.

Enforcement of various standards governing police action, or failure to act, can be achieved in various ways. For citizens with the time and resources to launch civil suits, there are remedies, such as mandamus and injunction, which can influence police policy and the exercise of discretion. For most citizens, however, administrative remedies established by

police forces and governments must be available to provide for review of police practice, and to allow complaints to be heard and followed up. The existence of practical codes and procedures for police to follow serves to make these review mechanisms more meaningful and effective.

Internal Accountability Mechanisms. Most police forces have internal procedures for investigating public complaints about the police. In one Member State, a domestic violence program officer, attached to the Commissioner's Office, monitors the response of the 74 police jurisdictions to domestic violence calls; a similar function exists in another country. In yet another country, annual audits are conducted to determine the police's compliance with the pro-arrest policy for domestic violence calls.

External Accountability Mechanisms. An increasing number of Member States have also created an ombudsman position, separate from police forces, to review and make public recommendations in response to complaints. The government of one Member State has established a Women's Commission to monitor police. Central to the effectiveness of these functions is public awareness of their availability, and unfettered access to the procedure.

Public Input. One police force has established regular public forums to enhance cooperation and dialogue with the community. In some jurisdictions, statistics regarding cases, and the police response to them, are made public. In another country, Community Policing Centres (CPUs) have been established which use evaluations and surveys to assist the police in assessing levels of performance and satisfaction of the community.

(f) Women in the Police Force

Section 8(f) of the Model Strategies urges Member States to encourage women to join police forces, including at the operational level.

In earlier discussions under this Section, the existence of special women-only police squads and stations has been noted in various countries. While it is expected that these innovations will increase the sensitivity with which women are treated, there is some concern that they could also work to marginalize the issues and prevent violence against women from being treated with the same seriousness as other violent crimes. In some countries, the female officers who are assigned to these special units are not perceived by their male colleagues as doing "real police work". In some countries where all women police stations have been established, "grave crimes" are not assigned to these units.

Police forces in many Member States, recognizing the value of female officers, have actively recruited women into their ranks, giving priority to the selection of women in some cases, although female officers remain very much in the minority in most areas. In other jurisdictions, the same hiring criteria are used for all new recruits, with minor adjustments in the physical requirements. Despite the increase in numbers of female police officers, they are still a minority in positions of power or authority, and in many instances do not have equal

authority or status with other officers. It is also not uncommon for female officers to be subject to harassment and abuse by their male colleagues. Some jurisdictions have prepared equality plans for police to address these concerns.

IV. SENTENCING AND CORRECTIONS

(a) Meeting the Goals of Sentencing

Section 9(a) of the Model Strategies urges Member States to ensure that sentencing of offenders meets the goals of:

- (i) Holding offenders accountable for their acts related to violence against women;*
- (ii) Stopping violent behaviour;*
- (iii) Taking into account the impact on victims and their family members of sentences imposed on perpetrators who are members of their families;*
- (iv) Promoting sanctions that are comparable to those for other violent crimes.*

In many Member States, the maximum penalties for criminal offenses are typically set high enough to adequately punish the worst imaginable example of the crime and the criminal, and as a result they provide only limited guidance to sentencing judges in more typical cases. In countries where minimum penalties exist, there is typically considerable leeway between the minimum and the maximum, within which judges exercise wide discretion.

Policy Guidelines. In many countries, the sentencing judge will normally receive a statement from the prosecutor regarding the physical and emotional harm suffered by the victim in serious cases; these are discussed in more detail under Section 9(c). In one Member State, the federal Crown Counsel *Policy Manual* notes the need for sentences for spousal assault to reflect public denunciation of this behaviour; Crowns should oppose recommendations for conditional or absolute discharges unless there are extraordinary and compelling circumstances, and sentences which are considered inadequate should always be appealed. In another Member State, a domestic violence manual used to guide probation officers recommending community-based sanctions for domestic violence sets forth conditions which should be considered as part of a supervision order. These include compliance with existing court orders or proceedings regarding family support, custody, access or paternity, as well as requiring written permission from the court or probation officer to possess a firearm or other weapon.

Strengthening Appellate and Legislative Guidelines. Criticism of sentencing practices has led some jurisdictions to strengthen appellate or other types of guidelines for sentencing. In one country, following a high-profile common law decision, the Chief Justice laid down sentencing guidelines for rape, indicating that imprisonment was indicated in all but the most exceptional cases, and that, in the absence of mitigating circumstances, five years was an appropriate sentence; aggravating factors were cited which could increase the sentence, including the use of violence or a weapon, previous convictions, premeditation, and so on. Higher recommended penalties were established for particularly dangerous or psychopathic rapists. Other Member States have created similar guidelines. In many Commonwealth countries, the prosecution may appeal the sentence to a higher court.

In most European countries, aggravating factors are established for increasing penalties. One common factor is the abuse of an authority/dependency relationship in rape, or rape of a minor. In one Member State, the *Violence in the Family Act* recognizes abuse of a family member as an aggravating factor. Another country has also amended the *Criminal Code* to provide that the abuse of a spouse and the abuse of a position of trust/authority, in the commission of the offense, are aggravating factors for sentencing purposes.

In one jurisdiction, a 1993 appellate court ruling held that assault of a spouse should receive the same penalty as if it had been an assault upon a stranger. If the relationship between the parties suggests that the violence represented a breach of trust, this will be treated as an aggravating, not mitigating, factor

Diversion and Other Alternatives. It is recognized that imprisonment of the offender and other severe punishments, are not always particularly effective in preventing future offending. One important issue is the indirect punishment of the family when punishing offenders. For example, fines may indirectly punish families, especially those who are economically impoverished. Fines are also seen as problematic because often victims are forced by their abusers to pay the fine.

In Commonwealth countries, diversion and mediation may be used to defer or suspend prosecution, although many experts question both the effectiveness and the appropriateness of such approaches. The appropriateness of mediation in particular has been questioned, given the pre-existing and continuing power imbalance between the victim and abuser. Notwithstanding their cultural acceptance in many countries, such approaches have also been criticized for giving weight to notions that the victim has contributed to some degree to the abuser's behaviour and shares responsibility for his violence and for stopping it – an implication that serves to revictimize and endanger the woman. The *Commonwealth Manual on Confronting Violence* suggests that preferable to diversion and mediation are sentences that provide for evening or weekend incarceration as well as treatment of the offender; such sentences may address concerns of indirectly punishing the family.

Aboriginal Approaches. In holding the offender accountable, Aboriginal communities refer to the healing approach (sometimes referred to as “restorative justice”), which offers a

different concept of offender accountability – an accountability to the victim, the families of victims and the offender, and the community as a whole. To many members of Aboriginal communities, punishment is not seen as an appropriate response. Rather, depending on the unique characteristics of the community, the offender may be required to take responsibility for his actions, possibly in a public ceremony, with all the key participants in his case there to watch his actions during and after the ceremony. It should, however, be noted that not all members of all Aboriginal communities agree that such approaches are, in themselves, an adequate or effective response. Critics of this approach also suggest that they are likely to work only in communities which are intact, healthy, respectful of all their members, and well-developed for collective action.

(b) Notification of Release

Section 9(b) of the Model Strategies urges Member States to ensure that a woman subjected to violence is notified of any release of the offender from custody, where the safety interests of the victim outweigh the offender's privacy interests.

A number of countries and jurisdictions have passed legislation outlining the rights of victims in the criminal justice system. Most such laws include provisions dealing with notifying the victim of the offender's release, and these vary considerably.

Not all victims wish to be reminded of the crime, sometimes years later, at the time the offender becomes eligible for release. In one Member State, in serious sexual or violent cases, the victim is contacted within two months of sentencing and asked whether she wishes to be notified of any plans for releasing the offender. In another country's federal correctional system, victims who ask to be notified of releases will be given the information where "the interest of the victim in the disclosure clearly outweighs" the offender's privacy interests. Besides the fact of release, victims may be told the conditions attached to it, the reasons for it, the offender's destination and whether his route will be in the victim's vicinity. Any victim who requests it will be told the offender's eligibility dates for release, and unless special circumstances exist, may attend and observe the hearing at which release is considered.

In most of this country's provincial correctional systems, the victim is also entitled by law to be notified of the offender's release, unless exceptional reasons exist. In one jurisdiction, a notification release form has been developed to make it easier for victims to obtain the information that is available under federal legislation. Victim service programs assist with the communication and can, at the wishes of the victim, act as agent of the victim.

Technological Advances. A software package has been developed called DAISI, which is adaptable to variations in the applicable laws which govern the victim's right to release information. DAISI calls the telephone number listed in official files for the victim and alerts the victim of the offender's imminent release. A similar program exists called VINES.

Sex Offender Registries. Most of the states in one country have enacted statutes which require sex offenders to register their location, thereby enabling local police to notify the community of the presence of a sex offender in the area. Although such laws theoretically provide a measure of protection to the community by alerting members to the presence of offenders, they have also been criticized for interfering with the process of reintegrating the offender back into the community and causing some offenders to go underground.

(c) Impact of Victimization

Section 9(c) of the Model Strategies urges Member States to ensure the sentencing process takes into account the severity of the physical and psychological harm to the victim, including through victim impact statements where such practices are permitted by law.

Many jurisdictions around the world explicitly provide for the consideration of victim impact statements, in some cases requiring them as part of pre-sentence reports in serious cases. Some jurisdictions give victims the right to tell the court, in person or in writing, their views as to an appropriate sentence. Such statements are intended not only to inform sentencing, but also to empower the victim, aid in her healing process, force the offender to consider the impact of the crime, and perhaps thereby have an impact on his rehabilitation. Information about the impact of the crime on the victim may also be conveyed in the form of research and expert witness testimony as to the typical effect of victimization of the kind suffered.

Victim Impact Statements. In one jurisdiction, the law requires that victim impact statements must, in addition to detailing any physical injuries or economic losses from the offense, identify any changes in the victim's personal welfare, familial relationships, and any psychological effects experienced by the victim and the victim's family. In another country, the *Criminal Justice Act* of 1985 provides the victim with the opportunity to present a victim impact statement for the consideration of the sentencing judge. In 1996, another Member State removed the courts' discretion not to consider victim impact statements presented to them.

Victim Input. Part of ensuring the use of victim impact information is ensuring that there is a procedure for the victim's input. Most provinces in one country require the Crown prosecutor to inform the victim of any plea bargain made in the case, and some go further, to require the Crown to seek the victim's opinion in advance. In another jurisdiction, victims who disagree with a plea bargain are entitled to file an objection.

(d) Sentencing Options

Section 9(d) of the Model Strategies urges Member States to provide a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence.

A wide range of sentencing options is available in many countries, ranging from capital punishment to unconditional discharge. In between are found such options as imprisonment in various forms (including continuous or intermittent detention), various court orders with a wide range of conditions which can be imposed on the offender, home confinement, electronic surveillance, restitution to the victim, community service, prohibitions of various kinds, shaming ceremonies or processes, day reporting centres, intensive community supervision, and an endless variety of rehabilitative programs designed to reduce the offender's risk and meet his needs for treatment. More research and evaluation of the impact of various sentences on various types of offenders is needed all around the world.

Not all sentencing options are available or legal in all jurisdictions; many Member States have outlawed capital and corporal punishment, banishment and forced medical treatment, for example. Few countries name all such programs in law, but most create a legal framework for enforcing the conditions of sentence, whatever they may be. In many jurisdictions, the limited resources for programs mean that only a minority of offenders will receive quality treatment which will address their needs and risks; long waiting lists exist for programs in many areas. By policy or legislation, certain options are mandatory or unavailable for certain offenses or certain offenders, based on age, prior record, and other factors. In most instances, however, wide latitude in the selection of sentences is left to the courts.

Aboriginal Approaches. Some countries, in an effort to make their justice systems more effective and responsive to their Indigenous peoples, have adapted and expanded their procedures and substantive options to allow for traditional ways of dealing with those who offend against the community. In some countries, sentencing judges have recognized healing circles, feasts, elders' councils, clan systems and other traditional means by which some Aboriginal communities decided on the consequences of prohibited acts and sought to repair the community after the harm was done. Some Member States have introduced family group conferencing, which is based on traditional practices in certain cultures, in an effort to reduce reliance on incarceration. While some criticism has been raised of the extent to which some traditional practices sufficiently consider the interests of women and other victims or address the underlying needs of offenders, many justice officials accept the need to allow Indigenous peoples to recapture and develop their own approaches to justice.

(e) Offender Programmes

Section 9(e) of the Model Strategies urges Member States to ensure that the sentencing judge is encouraged to recommend treatment of the offender at the time of sentencing.

The powers of sentencing judges to order or recommend programmes for offenders vary from one Member State to the next. Many countries allow the judge to select the type and “gravity” of the sentence (e.g., the amount of a fine, number of hours of community service, or maximum length of imprisonment), but not to make binding orders upon correctional authorities in respect of how the sentence is to be carried out. However, the recommendations of sentencing judges will normally carry considerable weight, if only because of their visibility and the respect due the office of the judge.

The Women, Law and Development International’s model framework for domestic violence legislation recommends that counselling programmes for offenders should be mandated, as a supplement, not an alternative, to the justice system. Combining treatment and education programmes with the force of judicial orders is a significant incentive for violent offenders to complete rehabilitative programs and a means of reinforcing the offender’s as well as society’s accountability for dealing with violence.

Effective Approaches. It has been recommended that policies for court-mandated counselling should be placed in legal regulations or certified under state-endorsed standards similar to those in one jurisdiction. The following suggestions have been made for standards in respect of programmes for wife batterers:

- court referral should be made pursuant to a conviction, rather than as a diversion program;
- monitoring of compliance with the program should be made by the court, and violations or non-compliance enforced by the court;
- the duration of the program should be specified as between nine and twelve months;
- the program should address the batterer’s responsibility for the violence, and should teach the batterer how to interrupt the violence and sustain non-violence;
- the program should conduct assessments of the client in order to determine his risk and suitability for the program, and program administrators should have the authority to refuse referrals which are inappropriate or unresponsive;
- there should be formal linkages with a women’s shelter in order to ensure proper staff training, client monitoring and program supervision; and
- the program should provide a case manager to ensure proper coordination and referrals of the client to other needed services.

The need for continuing monitoring and evaluation of offender programmes cannot be over-emphasized, as such work adds constantly to the available knowledge about “what works” and what does not.

(f) Violence against Detained Women

Section 9(f) of the Model Strategies urges Member States to ensure that there are appropriate measures in place to eliminate violence against women who are detained for any reason.

Legislative provisions respecting the safety of detained women were discussed in Section I. Other methods of safeguarding detained women from violence include codes of conduct for police and correctional officials, proper staff selection and training, institutional programs designed to increase positive interaction between staff and inmates, internal and independent oversight bodies, and special inquiries.

Amnesty International seeks, through publicity and public pressure, to stop the maltreatment of individual prisoners around the world, as well as the unjustified detention of political prisoners. A superior court in one country, in response to abuses of women in custody, ruled that police must ensure that a male relative accompanies any woman held in lock-up overnight. In another country, federal policy requires that all situations requiring staff to remove inmates forcibly from an area be videotaped. In the same country, an investigation into a situation in which female inmates were removed from their cells in a manner which shocked the public, who viewed a tape of the incident on television, has resulted in recommendations for an independent review body which would be responsible for monitoring situations in which inmates are guarded by members of the opposite sex. This review body will make annual public reports for three years on cross-gender staffing in all penitentiaries holding federal female offenders. The “correctional ombudsman” has also, as a result of this investigation, appointed a female investigator to deal exclusively with complaints by female offenders.

(g) Offender Treatment and Education Programs

Section 9(g) of the Model Strategies urges Member States to develop and evaluate offender treatment programmes for different types of offenders and offender profiles.

In the past two decades, there have been advances in the number and quality of treatment and education programmes for violent offenders, particularly for wife batterers, in many nations. (In other nations, such programmes are virtually non-existent.) These programmes vary to some extent in their emphasis and techniques, but most proceed from a focus on breaking down offenders’ rationalizations for their behaviour, and bringing them to a point where they accept responsibility for the problem and its solution.

A number of evaluations of various treatment and education programmes are available, and while much more research is needed, there are some indications that properly designed programmes for offenders can reduce recidivism. Some States have adopted guiding principles for assaultive men’s treatment and education programmes. In many such jurisdictions, programmes are evaluated and monitored for their compliance with these guiding principles.

Effective Approaches. The current research on the effectiveness of treatment and education programmes in general, and domestic violence programmes in particular, suggests that certain programme characteristics are associated with success more than others. Generally,

- effective programmes are relatively structured;
- treatment personnel should take an active approach;
- programmes challenge antisocial attitudes and behaviours;
- programme staff intensively model acceptable attitudes and actions;
- programmes teach offenders to recognize their dysfunctional approaches;
- programmes teach offenders to practice new and alternative skills for reacting and engage in concrete problem-solving;
- referrals to appropriate services to meet additional needs are also important;
- monitoring of offenders' behaviour and follow-up with appropriate action should be integral;
- concurrent support for and services to victims are also an important component of effective programmes; and
- approaches which tend to be less effective are open, unstructured, non-directive, and focused on factors (such as self-esteem) which are not clearly related to the criminal behaviour.

With wife batterers in particular, research tends to suggest that effective programmes have a component for offenders and a complementary component for victims, but that working with couples together tends to cloud the issue of who is responsible for the violence, and can place the victim in increased danger. Effective programmes focus on the offender's violence, teach offenders to see the power and control issues in their behaviour, and teach them new ways of thinking and acting. Ineffective programmes focus solely on the psychological issues (such as their own childhood victimization) faced by the batterer, on anger management, or on stress management. Treatment staff should be in frequent (perhaps weekly) touch with victims in order to verify their safety, and should work actively with related services for men and women. Sending offenders to religious leaders or elders may inadvertently serve to reinforce unhelpful messages about violence against women and children.

In general, treatment of sex offenders has shown less promising results. Most experts tend to the view that sex offenders can never be considered to be "cured", and an active, long-term relapse prevention regime is necessary for offenders who have established a pattern of sexual abusing.

Continuing challenges to the creation and success of these programmes exist in many jurisdictions, however, including the prevalence of certain attitudes regarding the place of women and children in society, multigenerational patterns of abuse, and taboos in some cultures about discussing sex. In addition, since most of the programmes which exist and the research and evaluation of programmes which have taken place involve offenders from the mainstream culture in Western industrialized nations, there are enormous gaps in knowledge about what kinds of programmes work best with offenders from other cultures.

(h) Protecting the Safety of Victims and Witnesses

Section 9(h) of the Model Strategies urges Member States to protect the safety of victims and witnesses before, during and after criminal proceedings.

Some research suggests that victims of violence may be at greater risk than ever during the criminal process. Witnesses, most often children, are also at risk, both directly and indirectly because those who witness violence suffer immediate and later consequences from the trauma of the event.

Some of the options available through police and courts for protecting the safety of victims and witnesses have been discussed in Section II. This section of the *Model Strategies* emphasizes that the existence of criminal proceedings against the offender is not, in itself, sufficient to protect victims and witnesses, and should not be seen as an alternative to protection orders or other safety measures. Nor does the conclusion of criminal proceedings bring an end to the risks or the need to protect victims and witnesses.

Risk Assessment Tools. Some jurisdictions make use of systematic assessment tools for identifying the risks and needs presented by offenders. SARA (the Spousal Assault Risk Assessment) is a specialized risk/needs assessment instrument used by justice system workers in some countries to determine the continuing risk to victims from their partners. SORA is the Sexual Offender Risk Assessment tool. However, some critics of existing risk assessment approaches suggest the need for more comprehensive strategies to address women's safety, such as one jurisdiction's Safety Assessment Kit for women. Various examples exist in many countries of checklist-type aids which women can use to assess the continuing risks to them, to take steps to reduce the risks which they can control, and to enlist the help of criminal justice and other professionals with the risks which they cannot control. While checklists can be useful in certain circumstances, there is a concern that they could serve as "blinkers", preventing the user from thinking of risk elements or indicators beyond the checklist.

Public Information and Privacy Issues. Sex offender registries are a means of notifying communities of the presence of sex offenders in their area. A few Member States have been in the forefront of establishing such systems. Other jurisdictions prohibit the publication of names and other identifying details of the victim.

V. VICTIM SUPPORT AND ASSISTANCE

(a) Information on Rights and Remedies

Section 10(a) of the Model Strategies urges Member States to give women who have been subjected to violence information on their own case, information on their rights and remedies and how to assert them, in addition to information about what to expect from criminal proceedings.

The United Nations has issued a number of formal statements which advocate and elaborate strategies for the proper treatment of victims of crime generally, including victims of the abuse of power. These include the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, and the *Handbook on Justice for Victims on the Use and Application of the UN Declaration of Basic Principles for Victims of Crime and Abuse of Power*. The Council of Europe in Recommendation R(87) 21 has issued a statement on assistance to victims and the prevention of victimization. The European Forum for Victim Services, which is made up a number of European non-governmental organizations, produced a Statement of Victim's Rights in the criminal justice system.

Among the principles and practices advocated in these documents are the following:

- the importance of crime prevention and public education and awareness measures as a means of reducing victimization and the impact of victimization;
- the need for victims to be provided with information about their rights, about the workings of the justice system, about their role, about the progress of their case, and about available assistance;
- the need for effective recourse for victims, including in cases where national channels of recourse are insufficient;
- the need for the views and concerns of victims to be considered;
- the need to protect the privacy of victims, where necessary;
- the need to protect the safety of victims;
- the need for victims to be assisted and supported during the process, including through crisis intervention, counselling, advocacy, support during the criminal process, training of criminal justice and related professionals in victim issues; and
- the right to restitution or compensation.

Types of Information Required. Information and advice is central to enable women to overcome violence. It is essential that women be involved in the design, development, implementation and evaluation of laws, policies and programmes. Many countries have been able to increase victim participation by providing advocates and/or support persons to women victims who address the victim's concerns regarding the criminal proceedings by providing information about the process. Victim information needs are generally recognized to fall into three types: general information about the justice system and how it operates, information about what is happening in the victim's own case, and information about the services available to support and otherwise assist the victim.

Avenues for Providing Information. One Member State's Task Force on Domestic Violence recommended a three-pronged approach to providing women with the necessary sources of information, advice and support: (1) national telephone help-lines; (2) local advice and information centres; and (3) information leaflets targeting individuals experiencing violence, and information packets for agencies they may be in contact with. It is important for information to be available at a wide variety of public sites, since many women are not ready to contact shelters, police, or other formal avenues.

Such information is widely available in many jurisdictions. For example, when the Domestic Violence Unit was established in a police agency in one jurisdiction, one of the first tasks was to gather relevant materials and assemble a family resource incident kit, which contained information on available services and agencies.

Guidelines for Information Release. Some countries specify in law or in policy the case-specific information which is to be made available to victims. In one jurisdiction, policy states that victims must be notified of all court scheduling changes, the final disposition of the case, the offender's release from custody, and the types and levels of protections available. Various victim rights' provisions in another Member State specify the common types of information to be made available to victims: information on the status of the police investigation, the role the victim will play, the opportunity to give a victim impact statement, information about the disposition of the case, and information about any release or escape. In another Member State, the 1996 *Victim's Charter* tells victims what level of service to expect from police, courts and other agencies from the moment of initial contact. The responsibilities of each agency are made clear, and contact points for lodging complaints about inadequate service are provided. Victims are told of the information they will receive at each stage, their own role and opportunities to be heard, how information from them will be used, and what processes and support services are in place.

(b) Formal Complaints

Section 10(b) of the Model Strategies urges Member States to encourage and assist women subjected to violence in lodging and following through on formal complaints.

Research undertaken in at least two Member States has found that having someone support female victims during the complaint and subsequent criminal process encourages them to follow through with complaints. In many countries, such assistance is available. Support services for victims include the explanation of court procedures, emotional support before, during and after court, clarification of legal terminology, referral to other services, and assistance in determining next steps. The effectiveness of such services will be dependent on the resources and quality of the personnel available; poor-quality service and lack of follow-through may merely serve to render the victim more vulnerable or re-victimize her.

Siting of Support Services. Support services may be attached to police agencies, prosecutors' offices, courts, or may be independent community or non-governmental agencies. In one jurisdiction, the preference is for a system-wide service which is part of the justice system, but not attached to any individual police department, Crown office or court staff. It assists victims throughout the criminal justice process, from the police investigation stage through the court and corrections stage. A recent report recommends that this model should be considered by other jurisdictions within that Member State. In another country, the Witness Assistance Service Unit is located in the office of the Director of Public Prosecutions, and is staffed by social workers and psychologists. There is also an Aboriginal Liaison Officer to provide special support to Aboriginal crime victims. In another jurisdiction, the prosecutor's office has a family violence specialist who interviews the victim as soon as the perpetrator has been charged. In another country, women have access to a police-based service where they may file charges, seek police intervention and receive referrals for support services. In another Member State, a court preparation program is available for sexual assault victims within the Victim Empowerment Program of the National Crime Prevention Strategy.

Volunteer Programs. Many countries rely heavily on the use of volunteers. However, these volunteers need to be coordinated and trained, therefore there is usually at least one paid qualified worker. In one country, witness support services staffed by volunteers are available in a number of sheriff's courts. Another Member State has an extensive network of free volunteer services for victims of sexual abuse.

Legal Representation. Separate legal representation for victims can encourage and assist women victims of violence to lodge and follow through on formal complaints. In one country, a victim of crime act provides victims with legal representation to protect their privacy interest in criminal trials. In another country, a protection centre of a women's foundation coordinates assistance to rape and incest victims, which may include volunteers to accompany the victim during police and court interviews, as well as legal representation by female attorneys.

In some countries, there are legal advocacy and assistance organizations which specialize in supporting court cases that address women's equality, including sexual harassment cases. Many such organizations take on a role in cases which could challenge existing law and legal principles. WILDAF (Women in Law and Development in Africa) is a network of women's organizations from 15 African countries which has been active in achieving respect for women's rights in cases of physical and sexual abuse and inheritance rights. In another country, the Women Legal Bureau is involved in cases dealing with trafficking in women.

(c) Redress for Harm

Section 10(c) of the Model Strategies urges Member States to ensure that women subjected to violence receive redress for the harm that they have suffered, including restitution or compensation from the offenders or the State.

Redress for harm suffered by victims of violence can take many forms. It may involve something as simple as a public apology, or as complex as compensating the victim from available state revenues or requiring the offender to pay restitution directly to the victim. Redress may be for medical and other direct expenses arising out of the offense, or it may address some of the more intangible effects of the crime. Compensation for harm suffered may be available through four different avenues: through the criminal courts, through administrative schemes established by the state, through civil suits, and *via* advocacy groups.

The extent to which each of these is available to women and children who are victims of violence will vary greatly from one Member State to the next. In some countries, the criteria for state compensation are so restricted and the funds available so limited that few cases benefit. The procedure may be cumbersome and slow. Restitution from the offender is largely dependent on the offender's ability to pay or on the victim's willingness to accept non-monetary forms of redress from the offender. It may be ordered formally through the courts or it might be negotiated through an alternative process, sometimes called restorative justice or alternative measures.

Redress through Criminal Courts. Most legal systems allow courts to order restitution to be made to a victim by the offender for direct losses or expenses, such as lost wages or medical costs, arising out of an offense. In some countries, restitution orders must take into account the offender's ability to pay, and in the case of impoverished offenders, the payment of restitution to the victim will take precedence over the payment of any fine which is ordered. The 1988 *Criminal Justice Act* in one Member State requires sentencing judges to give reasons for not ordering restitution in any case with an identifiable victim; restitution is not limited to direct, out-of-pocket losses or expenses. In another country, the *Criminal Code* was amended to allow for restitution for expenses incurred by a spouse in leaving the abuser's home to avoid injury. In some countries, it is the criminal courts which order compensation to the victim from government funds established for such purposes.

State-Run Compensation Schemes. Many countries have publicly funded administrative schemes to compensate victims of crime for their losses. Such schemes are often funded through criminal fines or a surcharge placed on fines imposed on criminal defendants, although the necessary funds may be allocated directly from general government revenues. The eligibility and compensation provisions of such schemes vary widely; some compensate only for out-of-pocket expenses directly arising from the offense, while others will also compensate for immaterial losses, such as pain and suffering. In some schemes, only victims of violence are eligible for compensation. The decision process also varies. In most jurisdictions, decisions are made by an administrative agency of government. However, other arrangements exist. In one country, a fixed sum of money is paid as compensation in any case where a recommendation is made by the Protection Centre of the Modern Women's Foundation, which offers help to rape and incest victims. In another Member State, there is a Treatment of Offender and Victim of Crime Foundation which is funded by donations from individuals, private sector enterprises and organizations, and ex-convicts.

Civil Suits. In most legal systems, any citizen may seek compensation for harm done through civil suits or other similar remedies. An individual's ability to access the civil courts may, however, be dependent on her financial resources. Furthermore, in some countries, women have no separate legal recourse, and must sue under the guardianship of a man: their father or brother if they are unmarried, or their husband if they are married. This latter avenue is obviously less effective in cases of domestic abuse.

(d) Gender-Sensitive Court Procedures

Section 10(d) of the Model Strategies urges Member States to provide for court mechanisms and procedures that are accessible and sensitive to the needs of women subjected to violence and that ensure the fair processing of cases.

As noted earlier, many victims report the experience of being "victimized twice": once by the offender and a second time by the criminal justice system. As a result, victims require effective means for having their complaints about the criminal justice system addressed.

General Guidelines for Treatment of Victims. Articles 5, 6 and 11 of the UN *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* address this concern. They call for victims to be informed of their rights and remedies in the system, to have the right to have their concerns and views presented and considered, to have timely resolution of their case, and to be compensated for violations by public officials. The *Basic Principles* call for the creation of independent and impartial review of the treatment of victims in such cases. Among the available remedies are civil suits, civil police boards, ombudsmen, and other independent review bodies.

In some countries, victims of crime legislation specifically legislates appropriate behaviour of judicial professionals towards the treatment of victims. The law in one country requires

prosecutors, judicial officers and others to treat victims with courtesy, compassion and respect.

Specialized Courts. It was noted in an earlier section that a number of Member States have established special courts to try domestic violence cases. These special courts often have the advantage of being able to process domestic violence cases more quickly than normally occurs in the general court system. In addition, they tend to rely on police, prosecutorial and judicial personnel who have special training and experience in working as a coordinated team on domestic violence offenses, and who are therefore more likely to be effective and sensitive to the special needs in these cases.

These special courts also have the advantage of being more able and likely to incorporate special procedures and mechanisms which can make the process less intimidating, confusing and uncomfortable for victims and witnesses. As noted earlier, the innovations available in various jurisdictions include separate waiting rooms for defendants and victims/witnesses, permitting a support person to be present during testimony, permitting in camera and videotaped testimony, using screens between the victim/witness and the accused in order to reduce intimidation, and using a live video link-up in order to permit the victim and witnesses to testify in a room separate from the accused. Other previously noted mechanisms which can make the process more accessible include providing legal representation for victims.

(e) Registration System

Section 10(e) of the Model Strategies urges Member States to make it easier for police and courts to know when a protection order exists for a particular victim, by establishing a registration system.

Most states in the Western world have begun to establish registries of protection orders. These are intended to ensure that police and court authorities can more readily learn about protection orders for victims which have already been issued, and thereby both enforce the conditions of existing orders and make more appropriate decisions regarding the behaviour of offenders and the assistance of victims. In one country, recent state and federal legislation requires that all states, territories and tribal courts “provide full faith and credit to” (recognize and enforce) domestic violence protective orders issued by other states, territories or tribal courts. This means that victims who hold protective orders from a court in one jurisdiction will enjoy the protection of the police and courts in other jurisdictions in the same country, who will uphold and enforce the conditions of the order.

The means by which such registries work will vary with the degree to which each jurisdiction is set up to track information in question. In the case of unsophisticated information systems, the burden will fall on the victim to inform the jurisdiction in which she lives of the existence of the order, conditions on it, its duration, and other particulars, and to ensure the order is certified by the issuing jurisdiction. As matters change, she will continue to need to inform the new jurisdiction accordingly. In the case of orders which are not certified, police are

authorized to treat the information as valid in the same manner as if it had been certified; however, uncertified orders will eventually be dropped from the information system. In other jurisdictions, the court is responsible for entering new orders on to the system.

Ultimately, the objective would be to have large courts, and eventually all courts, sufficiently computerized to allow them to prepare orders electronically, to enter this information directly (removing the burden on the victim to do so), and have all orders automatically available to other courts. Finally, the intent is to link the computerized information systems in different State jurisdictions. Clearly, most countries around the world are very far from having this kind of capacity.

VI. HEALTH AND SOCIAL SERVICES

(a) Residential Accommodations

Section 11(a) of the Model Strategies urges Member States to create a sustainable network of emergency and temporary housing for women and their children who are at risk of becoming or who have been victims of violence.

For many women, the law is a last resort against violence, and legal processes alone cannot be expected to prevent violence or protect all victims. Complementary housing, financial assistance, health and social services will always be a key component of efforts to deal with violence against women.

Shelters and Other Short-Term Housing. Since the 1970s with the establishment of shelters for battered women, the shelter movement has become international, and shelters exist all over North America and Europe, Latin America, and in other parts of the world. Shelters are available not just for victims of domestic abuse, but in some countries also for victims of rape in war, sex traffic, and for young women escaping sexual abuse. Shelters are expensive to maintain, however, and in most countries the need greatly exceeds the existing supply of shelter beds. Research suggests that many women are reluctant to use shelters; therefore, in addition to the shelters, there is need to provide other types of support services. Shelters tend to be underfunded and staffed, at least in part, by volunteers.

The provision of a safe haven for women and children need not be through shelters structured solely for that purpose. Any safe place which is able to take in victims and potential victims on a temporary, emergency basis can be at least a partial response that is better than none at all. In many countries, these safe places include churches, private homes, hostels and transitional housing, as the local culture and funding determines. Experience suggests, however, that the most effective safety networks will have links to police and women's organizations, provide trained staff, and are in locations that are kept a secret in order to protect both victims and those who try to help them. Information, referrals and counselling to assist women to make decisions about next steps are also critical to long-term success in empowering women, as are education, employment and economic opportunities.

Follow-up Resources. Shelters generally offer victims short-term assistance; however, there has been some development of “second-stage housing”, follow-up procedures, and other forms of support and resources for women who choose to leave the abuser permanently. Many countries benefit from women’s centres which provide holistic responses, including shelter, health services, legal and other counselling and referral. The existence of a paid coordinator appears to be central to the success of such work.

One country’s Task Force on Domestic Violence describes a *Model of Good Practice for Refuges and Support Services*, which includes (1) providing safety, (2) respecting the ability of the woman to make her own decisions, (3) being non-judgmental, non-discriminatory and consistent in approach, (4) keeping in touch with victims after they leave. The Task Force also recommends that primary responsibility for funding rest with a single government department.

Section 11(a) recognizes that shelters, crisis intervention services and other health and social services provided for women who are victims of violence should be established in cooperation with the “private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women’s equality, and research institutes”. It is also well recognized that effectiveness is also strongly tied to the degree of coordination among such services and between them and other relevant services and decision-making institutions.

Criticism of the notion that it is the woman or child who must leave the home, not the offender, is common. In at least three Member States, laws or even housing cooperative by-laws force the offender, not the victims, to leave if violence has occurred.

(b) Information and Support

Section 11(b) of the Model Strategies urges Member States to create services such as toll-free information lines, professional multidisciplinary counselling and crisis intervention services and support groups in order to benefit women who are victims of violence and their children.

Many Member States provide broad-based services to women who are victims of violence. Some of these services have already been described in earlier sections.

Rape crisis centres exist in many countries, providing a variety of services. Most have telephone hotlines for rape victims and other information and advice services. They may provide short-term residential facilities, accompaniment to the police station or hospital, legal and counselling services, and expertise and coordination with other medical and justice personnel. In many nations, rape crisis centres provide a range of counselling and therapy, both individual and group, for women and men who are victims of rape, sexual assault and child sexual assault. Services available can vary in different centres. Some provide counselling in person and by telephone, in some cases on a 24-hour basis.

In one Member State, the Autonomous Women's Centre against Sexual Violence, which was originally organized to help women raped in war, quickly broadened its mandate to include all women who are sexually abused. In another jurisdiction, a one-stop drop-in centre for victims of domestic violence is the joint undertaking of the police, Domestic Violence Clearinghouse, legal hotline, and Parent and Children Together. The centre provides women with on-site crisis assistance, legal advice and assistance, and child care while parents attend court. A police detective is on-site, allowing for a cooperative approach between police and victim advocates during the early stages of the criminal investigation. In many Member States, protocols have been developed among various agencies and organizations, including police, counselling services, courts, advocacy services and the like, in order to encourage and guide collaborative and coordinated approaches to providing services.

In most jurisdictions, a number of non-governmental organizations provide services to victims of violence. Many provide multiple services. In one Latin American country, an organization called Help and Shelter provides counselling to victims of domestic violence and sexual abuse; support with visits to the police station, hospitals; support in court; referrals to places of shelter; referrals to agencies providing other assistance.

In another Member State, there is a National Clearinghouse on Family Violence, administered by the Ministry of Health as a national resource centre for all citizens seeking information about and solutions to violence within the family. The Clearinghouse gathers, assesses and organizes existing information and develops new informational materials. Professionals, front-line workers, researchers, community groups, the media and politicians are among the many clients of the Clearinghouse.

(c) Substance Abuse Programmes

Section 11(c) of the Model Strategies urges Member States to create programmes to prevent alcohol and drug abuse.

As the *Model Strategies* point out, alcohol and drug abuse are frequently present in incidents of violence against women. This is not to say that such abuse is a cause of the violence, but rather that it may contribute to the eruption of violence by the offender. Both the offender and the victim in such incidents may be in need of substance abuse programmes. Substance abuse by the victim may be a factor in both preventing her from seeking help and persuading the justice system to treat the offense seriously.

Substance abuse prevention and treatment programmes are available in most developed countries, ranging from educational programmes in schools and private, voluntary programmes such as Alcoholics and Narcotics Anonymous to government-subsidized residential programmes for alcohol and drug abusers. In some cases, however, the requirements of programme integrity prevent the acceptance of some potential clients into treatment, for example if they have a history of violence. Given the range of substance abuse

in most countries and the long-term investment required for effective prevention and treatment, the need in most areas considerably outstrips the available resources.

It is critical for professionals and volunteers to be aware of the linkages between violence and substance abuse. Substance abuse counsellors should be cross-trained with workers who deal with violence against women in order to give workers in both fields a sound understanding of both issues and to strengthen their abilities to deal with the relationship among the offender, the victim, the violence and the substance abuse. In one Member State, the LINK program is designed to ensure that services for abused women are combined with alcohol and drug services.

(d) Medical-Justice System Linkages

Section 11(d) of the Model Strategies urges Member States to establish better linkages between medical services and criminal justice agencies for purposes of reporting, recording and responding to acts of violence against women.

Medical practitioners are not always sensitized to issues around violence against women. Women who present themselves for treatment may often be misdiagnosed or the reasons for their injuries ignored. Medical practitioners often lack information about and training in dealing with such cases, including information on the available services to which victims might be referred for help.

Reporting Offenses. In some jurisdictions, not only medical personnel but educators, welfare workers, other professionals or all individuals are required by law or policy to report to police cases in which they suspect that an injury to a minor child is not accidental. The obligations of medical practitioners with respect to reporting assaults upon adult women are, in most countries, less clear. In some cases where women are not ready to report offenses to police, medical practitioners may be reluctant to involve the justice system, for fear that the woman will not seek or continue medical treatment in the future. The privacy of medical information shared between the practitioner and patient is also a consideration in non-reporting.

Protocols and Referrals. Many Member States have developed and are actively using protocols between medical practitioners, criminal justice personnel and other services for cases of violent injury. These are intended to guide decision-makers, ensure cooperation between the parties, and encourage referrals of victims to appropriate services. One country's Task Force on Domestic Violence recommends that protocols for medical practitioners be developed which are aimed at the identification and disclosure to police of non-accidental injury, as well as referral to specialist advice and assistance. At least two Member States are in the process of developing guidelines for medical practitioners on domestic violence, one through a women's aid group and another through emergency medicine and general practitioners.

In yet another country, hospital and women's organizations developed a protocol for the One-Stop Crisis Centre: Interagency management of Battered Women. This centre provides 24-hour care and on-site access to police and legal advice. A hospital protocol in another jurisdiction has been developed and implemented for identifying and treating battered women. The social services department has established a 24-hour trauma unit which also gives workshops and seminars for professionals and laypersons. One children's hospital has a domestic violence specialist on staff who works with mothers whose children have been identified as being at risk as a result of violence against their mother. Sexual assault centres also play an important role in providing holistic services. Similar developments are in place in other countries.

Specialized Sexual Assault Protocols. Police forces and medical experts in many countries have developed sexual assault medical-forensic evidence kits to guide sexual assault medical forensic examinations. One Member State has mandated that victims of physical or sexual abuse be examined by the Medical-Legal Institute, which has developed expertise in these cases from both a medical and a justice perspective. In another country, the federal Office for Victims of Crime has developed a model sexual assault medical examination protocol.

In another jurisdiction, under the Sexual Assault Care Centre Model, treatment and investigation are consolidated in specially designated hospital units within which staff are trained to use a sexual assault kit designed to guide staff to collect the necessary medical and legal evidence and provide adequate care. *A Handbook for Physicians Dealing with Woman Abuse and the Criminal Justice System* presents comprehensive national recommendations for physicians in dealing with spousal abuse, provides background information about woman abuse and introduces the medico-legal relationship. Further, there is a protocol for hospitals and police regarding the collection and storage of medical forensic evidence where sexual assault victims have not decided to call the police. Evidence will be stored for a year to allow a woman to report to police at a later date and still have the medical forensic evidence available.

In another country, a medico-legal consultation clinic is being introduced to the public, located in the public hospitals. The field of services includes civil division, criminal division and medico-legal consultation. Recently, this organization has been working together with women's drop-in centres.

(e) Model Procedures

Section 11(e) of the Model Strategies urges Member States to develop model procedures to help participants in the criminal justice system to deal with women subjected to violence.

Model procedures for justice personnel exist in many Member States. These include the policies and regulations referred to earlier, such as investigation and pro-arrest policies for police in domestic violence cases, full investigation and pro-charging policies for police and

prosecutors, and procedures respecting pretrial detention or release. Many of these have been developed through the kinds of multidisciplinary partnerships suggested by the *Model Strategies*.

This resource manual details under each strategy some of the model procedures in the criminal justice system that have been developed to help victims of violence against women.

(f) Specialized Units

Section 11(f) of the Model Strategies urges Member States to establish specialized units with persons from relevant disciplines especially trained to deal with the complexities and victim sensitivities involved in cases of violence against women.

Specialized units found in police stations, prosecutorial offices, courts and medical offices are discussed in earlier sections. Other specialized units include the Domestic Violence Legal Unit in one Member State which provides legal advice to victims, intervenes on their behalf with police, and advocates for measures in the interest of clients, including the laying of charges and the issuance of restraining orders. In one jurisdiction, a rape treatment centre attached to a hospital provides comprehensive care: 24-hour emergency treatment, evidence collection, crisis intervention, advocacy, court accompaniment, legal assistance, and psychological services.

In another country, the Ministry of Home Affairs, which is responsible for law and justice, has established Women and Child Protection Units. These multi-agency units, unique in Africa, coordinate and deliver a full range of relevant services for women and children's safety.

VII. TRAINING

Section 12 of the Model Strategies urges Member States, as appropriate:

- (a) To provide to police and other criminal justice officials mandatory cross-cultural and gender-sensitivity training that deals with the unacceptability of violence against women, its impact and consequences, and that promote an adequate response to the issue of violence against women;*
- (b) To ensure adequate training, sensitivity and education of police and criminal justice officials, regarding all relevant human rights instruments;*
- (c) To encourage professional associations to develop enforceable standards of practice and behaviour for practitioners involved in the criminal justice system, which promote justice and equality for women.*

Examples of entry-level, in-service and specialist training packages to teach cross-cultural sensitivity, gender sensitivity and violence against women issues can be found around the globe. Many of these training packages were developed and are delivered in cooperation with non-governmental organizations and other experts in the relevant fields. There are various kinds of training that are relevant to violence against women issues including, offense specific, gender sensitivity and human rights training.

Training in Offenses of Particular Relevance to Women. In many countries, police agencies conduct domestic violence seminars for their officers, especially the junior and senior non-commissioned officers who are most likely to be first on the scene. In one South American city, the Provincial Council for the Women of the Provinces developed family violence prevention training for female police officers. The women-only police stations in this country were to receive training in all aspects of domestic violence, from its psychological impacts to the legal remedies available to the victim, as were the medical practitioners of the Medical-Legal Institute, which certifies the nature of injuries for police reports.

Another country introduced intensive training for police on the treatment of women; trainers included legal professionals. An evaluation suggested that after the training, women were receiving more sympathetic and prompt assistance at police stations. Prosecutors and magistrates are now involved in training.

Some jurisdictions have training institutes serving a multitude of different justice sectors, and some of these offer packages on domestic violence for senior police, police recruits, victim service workers, Crown prosecutors, corrections and other front-line workers. In one jurisdiction, these packages explain the aggressive policy on handling domestic violence and describe the proper role of justice personnel. This same jurisdiction has an Association of Specialized Victim Assistance and Counselling Programs which provides its own core training on violence for victim assistance workers. The United Nations Development Fund for Women (UNIFEM) sponsors training modules on violence against women as part of the mandatory training for police and magistrates at the national training institutes in Dakar, Senegal. The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) has organized training courses for police officers and prosecutors on domestic violence against women in Central and Eastern European countries.

Some police forces have developed training packages for police working on investigations of child pornography. In one Western city, the Prosecutor Training Institute has created a new data bank which gives prosecutors access to relevant litigation on domestic violence and sexual assault. In one African city, rape crisis centres, health care professionals, universities and other NGOs and police collaborated in a five-tier police training programme which covered: (1) general trauma and victim empowerment; (2) police stress and management; (3) rape and sexual assault; (4) domestic violence; and (5) child abuse and protection.

Gender Sensitivity Training. The United Nations Latin American Institute for Crime Prevention and the Treatment of Offenders (ILANUD) trains judges, lawyers and others from all over Latin America on gender-related issues, with emphasis on violence against women. ILANUD's regional training program against domestic violence in Central America, South America and Mexico work with justice administration systems (lawyers, judges, prosecutors, forensic units), penitentiary systems, non-governmental organizations who work in the area of domestic violence, therapy groups, universities, human rights national organizations. Their philosophy is that the prevention and treatment of domestic violence victims requires a multidisciplinary approach, introducing an integral perspective teaching power gender differences and inequalities between women and men, psycho-social and legal perspectives. In one Member State, non-governmental organizations have developed and deliver a gender sensitivity training package for health personnel. Another country is in the process of developing a training package for police on human rights and integrated gender perspectives.

Some experience suggests that "gender sensitivity" training may be less well received if it is not presented as, for example, training in the appropriate criminal justice responses to violence against women. Professionals who go into communities to offer training to local people also may find that they themselves learn a great deal about gender issues in the

process; this serves to underscore the importance of regular contact between justice professionals and the women and children who are affected by violence, as well as NGOs.

Human Rights Training. The Office of the High Commissioner for Human Rights in Geneva has produced training manuals for various criminal justice professions on international human rights standards. The Professional Training Series produced a three-part package of materials for human rights training for the police; 1) a manual on human rights training which provides in-depth information on sources, systems and standards for human rights in law enforcement, 2) the trainer's guide, which provides instruction and tips for trainers and 3) the pocket book of standards which is designed to be readily accessible. This package takes the "train the trainers" approach and has been piloted in a number of countries in Africa, Asia, Latin America and Europe. The United Nations and the International Bar Association (Human Rights Institute) is developing a Training Manual in human rights for judges and lawyers.

A number of challenges exist in training with respect to violence against women. Although it is recognized that NGOs and women themselves have an important role to play in designing, delivering and evaluating training packages, these persons can be used to supplement inadequate capacities and resources for training. This can place a burden on organizations and individuals who are not well compensated for their contribution. At the same time, there would be value in sharing training manuals with a wider variety of international agencies, including the United Nations Development Programme (UNDP), UNIFEM, the Organization of American States (OAS), and OXFAM. A partnership of trainers from developed countries and those from less developed countries would extend the relevance of training to a variety of cultures.

Training of volunteers and of women themselves is often overlooked in favour of training of professionals. The evaluation of training packages is particularly important, both in terms of how it affects attitudes and skills, and in terms of how it affects policies and practices. Training in respect of violence against women is also often seen as secondary or not part of core preparation for justice responsibilities. To be most effective, training must be grounded in clear policies, protocols and procedures, which carry consequences for non-compliance.

Some criminal justice professionals, such as judges, can be difficult to engage in training programmes. One country's approach to such resistance has been to identify certain types of cases (such as child sexual abuse) as "specialized" ones for which criminal justice professionals must "qualify" through training.

VIII. RESEARCH AND EVALUATION

Section 13 of the Model Strategies urges Member States and the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, relevant entities of the United Nations system, other relevant international organizations, research institutes, non-governmental organizations, including organizations seeking women's equality, as appropriate:

- (a) To develop crime surveys on the nature and extent of violence against women;*
- (b) To gather data and information on a gender-disaggregated basis for analysis and use, together with existing data, in needs assessment, decision-making and policy-making in the field of crime prevention and criminal justice, in particular concerning:
 - (i) The different forms of violence against women, its causes and consequences;*
 - (ii) The extent to which economic deprivation and exploitation are linked to violence against women;*
 - (iii) The relationship between the victim and the offender;*
 - (iv) The rehabilitative or anti-recidivistic effect of various types of intervention on the individual offender and on the reduction of violence against women;*
 - (v) The use of firearms, drugs and alcohol, particularly in cases of violence against women in situations of domestic violence;*
 - (vi) The relationship between victimization or exposure to violence and subsequent violent activity;**
- (c) To monitor and issue annual reports on the incidence of violence against women, arrest and clearance rates, prosecution and case disposition of the offenders;*
- (d) To evaluate the efficiency and effectiveness of the criminal justice system in fulfilling the needs of women subjected to violence.*

Research and evaluation can be an extremely powerful tool for understanding and change. Unfortunately, they also take a back seat to operational activities in countries facing a shortage of resources of various kinds. While a considerable amount of research has been done on laws and practices relating to violence against women around the world, most of the available research on this violence and its impact, society's response to the violence, and the impact of that response has taken place in Europe and North America. This is understandable, since, compared to many other regions, these countries tend to be relatively rich in resources for both action and research. However, experts are quick to point out that the available research in Europe and North America is in itself inadequate, and its relative absence in other areas of the world leaves enormous gaps in the collective understanding. The need for more research, especially in less developed countries, cannot be overstated.

Crime Incidence Measures. The most common measure available of crime, including violence against women, is the numbers of crimes reported to and by the police. The use of official police statistics to measure the incidence of crime has been shown to underestimate offenses, especially where reporting the offense would involve a sense of shame, the violation of privacy, or danger to the victim. Widely reported police statistics also typically do not provide systematic information on factors which are important to the analysis of violence against women - factors such as the gender and other information about the victim, and the relationship between the offender and the victim. In order to be truly useful to a discussion of violence against women, such official statistics need to "disaggregate" crime data - report it in sufficient detail for populations, such as women and children, who are of interest. The result is that, even in relatively resource-rich countries, annual reports on crime incidence typically cannot indicate what proportion of crimes are committed against women and children. However, some countries have begun to develop the capacity to disaggregate certain types of crimes reported to police, such as domestic violence, which are more often committed against women.

Victimization Surveys. It was not until the 1970s that victimization surveys were more widely undertaken as a means of estimating actual crime incidence more accurately. Surveys are believed to underestimate the problem less than do police reports, but questions remain about the comprehensiveness of surveys, particularly in relation to certain types of crime. For example, crimes which are less prevalent than others cannot be reliably measured in small surveys. Little can be learned from surveys of a thousand people or fewer about an offense which has a relatively low reported annual victimization rate. In addition, the cultural climate in which women report their victimization in such surveys will also determine their accuracy. In virtually all cultures, discussing sexualized violence in particular is still extremely difficult.

The United Nations Interregional Crime and Justice Research Institute (UNICRI) International Crime (Victim) Survey is intended to begin a process for making cross-national comparisons in criminal victimization. It has been conducted three times, in 1989, 1991 and 1996, in selected urban locations in up to 50 countries. In most areas, sample sizes were around a thousand respondents. Vast differences in rates of violence, especially sexual

assault, against women were found in different regions of the world, but the numbers of respondents in many areas would necessarily limit the generalizability of the findings. The researchers have noted particular difficulties in getting many respondents to discuss sexual victimization.

Despite the increased attention given to the prevalence and seriousness of domestic violence over the past few decades, for example, it is only in the past few years that official crime statistics and surveys in developed nations have begun to reflect its incidence in a more systematic way. One Member State has a regular national victimization survey, the largest and oldest of its kind, involving a sample of some 16,000 respondents, but this survey of citizens generally picks up very little information about sexual assault. Some countries have done surveys specifically intended to measure only violence against women. Comparisons in two countries showed that women are much more likely to report violence on a survey which is aimed entirely at that phenomenon, and not at crime victimization generally. One such violence survey, done in 1997, involved over 7000 interviews with women, and another, done in 1993, involved over 12,000 interviews with women. These latter surveys have become something of a model for such work, and their designers continue to share their technical expertise in survey design, development and implementation. The World Health Organization is designing a population survey of the prevalence and health consequences of violence against women in families in developing countries. The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) has started to plan an international survey on violence against women.

The Need for Alternative Research Methods. In the past twenty years, the preference for traditional quantitative research in criminology has begun to be supplemented by additional research and evaluative strategies. Well-designed qualitative studies have the potential to contribute to the understanding of violence against women by providing opportunities for women to tell their experiences. Such studies tend to favour a deeper exploration of a smaller number of cases, thus enriching and broadening the understanding of the issues. Gender-based analysis and analysis of systemic problems have also become more common in evaluative frameworks for policy and practice. Economic models of the “costs” of violence are also a developing tool which could be applied more widely. The existence of multiple research strategies is a good way to develop the best possible understanding of the realities and the issues.

There is a need for national and international research programmes to address key issues in violence against women, including the patterns, costs and consequences of violence; how victims may be empowered and participate more fully in the justice process; levels of tolerance and acceptance of violence against women; why some victims are more resilient than others; what makes women safer and what makes offenders change. Dissemination of research findings to the widest possible audience is critical.

IX. CRIME PREVENTION MEASURES

Section 14 of the Model Strategies urges Member States and the private sector:

- (a) To develop and implement public awareness and public education and school programmes that prevent violence against women by promoting equality, cooperation, mutual respect and shared responsibilities between women and men;*
- (b) To develop multidisciplinary and gender-sensitive approaches, especially through partnerships between law enforcement officials and the services that are specialized in the protection of women victims of violence;*
- (c) To set up outreach programmes for offenders or persons identified as potential offenders in order to promote the peaceful resolution of conflicts, the management and control of anger and attitude modification about gender roles and relations;*
- (d) To set up outreach programmes and offer information to women, including victims of violence, about gender roles, the human rights of women and the social, health, legal and economic aspects of violence against women, in order to empower women to protect themselves against all forms of violence;*
- (e) To develop and disseminate information on the different forms of violence against women and the availability of programmes to deal with that problem, including programmes concerning the peaceful resolution of conflicts, including in educational institutions at all levels;*
- (f) To support initiatives of organizations seeking women's equality and non-governmental organizations to raise public awareness of the issue of violence against women and to contribute to its elimination.*

One country's Task Force on Domestic Violence suggests that there are two key aspects to an effective strategy aimed at preventing violence against women: (1) a long-term strategy aimed at changing society's attitudes and values, as well as the structures which facilitate inequality;

and (2) a strategy which comprises a more effective service response with a public awareness campaign aimed at prevention of violence and preventing its recurrence.

Public Awareness Campaigns. Evidence suggests that consistent public awareness campaigns, sustained over a long period of time, are more likely to be effective. One country has been engaged in a public awareness campaign, the Family Violence Initiative, for the past ten years. Another has had a five-year plan which involved campaigns dealing with various forms of violence against women. Yet another has recently launched its second five-year campaign. Research suggests it has had some impact, and that single, short-term campaigns are ineffective. Similar results have been seen as a result of campaigns in many other countries. In one Member State, the campaign consisted of outdoor advertising, the distribution of leaflets, and the circulation of a national petition.

Public awareness campaigns can have several different intended audiences, and can target each of them with different messages and information, including: information about remedies and help available, aimed at victims and potential victims; information about the prevalence, impact and illegality of violence against women, aimed at the general public and at abusers; myths about violence against women, as compared to the reality; and messages that women, men and society in general condemns such acts. The specific messages and media must be chosen to fit the cultures they target. For example, one country designed its campaigns to rely heavily on the popular media of street theatre and video in order to reach audiences with low reading levels. In another country, the Law Reform and Development Commission conducted a series of public and national hearings on violence against women as well as using a multi-media campaign of photographs, television, newspaper and video dramas. There is a need to ensure this education extends to rural areas and involve traditional leaders and grassroots women leaders. Before campaigns are launched, there must be an infrastructure of support services in place, since increased awareness may cause a flood of disclosures which will put victims at risk if no supports are available for them.

Youth Programmes. Education programs for youth can play an important role in developing awareness for a new generation. The *Final Report of Activities of the Group of Specialists for Combating Violence against Women* suggests that the unacceptability of violence against women will only be effective if new values are promoted through the education system. Schools in many Member States have programmes and projects in place for educating youth on the problem and the solutions. Some of the elements which may be included in such programmes are communications skills, assertiveness, cooperative conflict resolution, dealing with emotions and violence, respect and responsibility for self and others, knowledge of human rights, women's rights, power imbalance, and the causes and effects of violence.

A programme in one Member State incorporates human rights education for youth with information on the links between violence and notions of patriarchy, superiority, competitiveness, inequality, intolerance and indifference. In another country, an education programme on gender issues is being undertaken by the Primary Teacher Training Institutes. Some countries have already revised their curriculum to include human rights training from

an early age. the United Nations Educational, Scientific and Cultural Organization (UNESCO) focuses on legal literacy at all levels of education, and has developed the “Passport to Equality”, a passport-sized *Convention on the Elimination of All Forms of Discrimination Against Women*. UNESCO’s initiatives aimed at the consolidation of society around the principles of tolerance and respect for cultures include radio and television broadcasts, publication of school textbooks and teaching material and revision of curriculum content.

School programmes for reaching youth will be effective only to the extent that youth actually attend school. In parts of the world and in areas where large proportions of youth are not in school, alternative approaches must be developed, including through the use of recreational programmes adapted to teach youth additional skills and values, peer groups and adult role models (such as sports celebrities) who appeal to youth. Numerous examples of such programmes exist in many Member States.

Community-Based Crime Prevention. Community-based prevention strategies include parenting skills programmes, family support programmes, local theatre, mock trials, the development of interagency strategies and policies, workplace campaigns, and workshops. In one country, “Sixteen Days of Action against Gender Violence”, using the slogan, “It’s your mother, your daughter, your sister,” produced plays, demonstrations, television and radio programs, and a variety of public and community events which drew connections between gender violence and the current political issues in the country. Another country has spent considerable sums to fund community organizations to develop and run more than 1200 local domestic violence prevention workshops for youth across the country. Yet another country has established a Domestic Violence Workplace Education Day which involves local communities in awareness activities. Businesses are encouraged to use the Day to distribute information to employees, display anti-violence messages, hold workshops and invite speakers in for awareness and educational events.

Raising men’s awareness to this issue is essential in involving men in the solution. In one country, Men’s Marches on Violence against Women were held, with the country’s political leader as a keynote speaker. Empowering women is also part of prevention; empowerment can involve everything from helping women to understand the situational risks they can avoid, to teaching them skills for economic independence. Examples of such initiatives are found in international agencies and national and local programmes all over the world.

Initiatives to prevent violence against refugees and internally displaced persons might include “women-only spaces” in camps, support systems for women in camps, peacekeeping forces which include women skilled in work on sexual violence, and additional controls over military and peacekeeping forces.

Violence in the Media

Section 15 of the Model Strategies urges Member States and the media to develop public awareness campaigns and appropriate measures, such as codes of ethics, aimed at enhancing respect for the rights of women and discouraging both discrimination against women and stereotyping of women.

The media have a key role in either promoting or undermining respect for women in society, and either reflecting the tolerance for violence against women which is prevalent in a society or leading society into a new paradigm in which such violence is not acceptable. The Council of Europe's Group of Specialists for Combating Violence against Women recommends that the media be encouraged to participate in the development of the new paradigm and to take a lead role in promoting national and local awareness of the International Day to End Violence against Women (November 25). In one Member State, the federal government and the national Association of Broadcasters in a joint venture, developed public service announcements on various aspects of domestic violence.

Legislative and Regulatory Approaches. Many countries also have government licensing and regulatory bodies which impose standards of various kinds on some media. In one country, a *National Press Law*, passed in 1996, forbids the publication of graphically violent material, obscene texts or images, or material which "affects the good customs of society" (primarily intended to prevent explicit descriptions of sexual acts and the depiction of human genitalia other than for educational purposes). In 1995, another country passed a women's development law which mandates the central and local governments to support the eradication of sexual discrimination in the media. Yet another country has an *Indecent Representation of Women Act*.

Media Codes of Conduct. Most media have formal or informal voluntary codes governing sex and violence in the materials they depict, including warnings and ratings attached to individual materials which allow self-censorship or censorship by parents. In one Member State, media and advertising organizations developed guidelines on the use of sexist language, material that encourages violence against women, and reportage of violence against women and the recognition of gender roles.

Controversy surrounds the comprehensiveness and effectiveness of these codes, however, as for example in the lack of specific policies governing the depiction of women, or the frequency with which violence is portrayed in television aimed at children and youth. In one Member State, the Women's Group of the Campaign for Press and Broadcasting Freedom has developed an extensive list of criteria for media to consider when producing or distributing material, under various topics such as "titillation/ sensationalism", trivialization, and "asking for it". A similar exercise has been undertaken by Women against Violence in Pornography and Media in other countries. In one country, a women's magazine published by a non-governmental organization provides a model for the positive portrayal of women in the media.

Additional Strategies. Additional strategies have been suggested by the Council of Europe, including: guidelines and codes of conduct, reflecting a “zero tolerance” policy, by and for media professionals; regular safety audits by media and their parent companies; combined self-monitoring and investigative bodies drawing on all sectors of the media; giving the public the opportunity to make complaints to such bodies, and granting women’s and other organizations observer status; adding zero tolerance to the criteria by which broadcast licenses are issued and renewed; appointment of expert women to regulatory, governing, consultative and programme advisory bodies; government-funded autonomous women’s media monitoring organizations; disciplinary sanctions and financial penalties for breaches of voluntary guidelines; and further research on the impact of media reporting and representation of violence against women and gender stereotyping. Other strategies include training of and discussions with media by NGOs and governments on how to portray women, avoid stereotyping and report on crimes against women in a constructive way.

X. INTERNATIONAL COOPERATION

Section 16 of the Model Strategies urges Member States and United Nations bodies and institutes:

- (a) To exchange information concerning successful intervention models and preventive programmes in eliminating violence against women and to compile a directory of those models;*
- (b) To cooperate and collaborate at the regional and international levels with relevant entities to prevent violence against women and to promote measures to effectively bring perpetrators to justice;*
- (c) To contribute to and support the United Nations Development Fund for Women in its activities to eliminate violence against women.*

There are numerous examples of international cooperation and information-sharing in the prevention and prosecution of violence against women. These include the publication and dissemination of United Nations and other international standards and declarations which touch on the issue; the creation and dissemination of guidelines, such as the UN High Commissioner for Refugees' Guidelines for the Protection of Refugee Women; international development programs and projects aimed at women's equality and women's development at economic, social and political levels; the existence of UN and other international tribunals for the prosecution of wartime violence and other violence involving women; the appointment of UN High Commissioners and Special Rapporteurs with educational and investigative mandates and powers; the preparation and dissemination of compendia of laws, procedures, initiatives and research, with appropriate recommendations for future action; support for local and regional organizations seeking women's equality and other relevant non-governmental organizations; regular and special conferences and meetings of experts on the prevention of crime and treatment of offenders; international public awareness campaigns, such as the International Day to End Violence against Women; and so on.

UNIFEM has sponsored a virtual working group to end violence against women in preparation of a global videoconference set for March 1999. This working group discusses:

1) policies, legislation, strategies, and partnerships to combat violence against women; 2) case studies, best practices, and other examples representing successful government and civil society efforts to overcome challenges to eliminate violence against women; and 3) ways in which new information/communications technologies can be used to support efforts to end violence against women. This virtual working group has received positive feedback as an approach for stimulating discussion and sharing ideas and strategies worldwide.

Ratification of the Convention; Other International Bodies

Section 17 of the Model Strategies urges Member States:

- (a) To limit the extent of any reservations to the Convention on the Elimination of All Forms of Discrimination against Women to those that are formulated as precisely and as narrowly as possible and that are not incompatible with the object and purpose of the Convention;*
- (b) To condemn all violations of the human rights of women in situations of armed conflict, to recognize them as being violations of international human rights and humanitarian law and to call for a particularly effective response to violations of that kind, including in particular murder, systematic rape, sexual slavery and forced pregnancy;*
- (c) To work actively towards ratification of or accession to the Convention on the Elimination of All Forms of Discrimination against Women, for the States that are still not parties to it, so that universal ratification can be achieved by the year 2000;*
- (d) To give full consideration to integrating a gender perspective in the drafting of the statute of the international criminal court, particularly in respect of women who are victims of violence;*
- (e) To cooperate with and assist the Special Rapporteur on Violence against Women in the performance of her mandated tasks and duties, to supply all information requested and to respond to the Special Rapporteur's visits and communications.*

As of this writing, 97 Member States are signatories to the *Convention on the Elimination of All Forms of Discrimination against Women*. Numerous countries have entered reservations to the *Convention*, ranging from issues related to the exclusion of women from military combat and the payment of salaries during periods for maternity leave, to more fundamental concerns about the underlying assumptions reflected in Articles 1 and 2, which embody such basic notions as equality principles and the obligation to take all appropriate measures to reverse discriminatory practices.

The Rome Statute of International Criminal Court was adopted by the UN Diplomatic Conference of Plenipotentiaries in July of 1998. It is still subject to ratification, acceptance or approval by the Economic and Social Council (ECOSOC) and the General Assembly (GA), but it is essentially aimed at crimes of genocide, crimes against humanity, war crimes, the “crime of aggression”, terrorism and drug crimes. Within the definitions of these crimes fall such offenses as rape, sexual slavery, enforced prostitution, forced pregnancy, enforce sterilization, or “any other form of sexual violence of comparable gravity”. Member States who become Party to this statute, once it is ratified, accept the International Criminal Court’s jurisdiction and actions begun within their borders may be tried by it.

APPENDIX. TEXT OF THE MODEL STRATEGIES

MODEL STRATEGIES AND PRACTICAL MEASURES ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

1. The multifaceted nature of violence against women suggests that different strategies are required for different manifestations of violence and the various settings in which it occurs. The practical measures, strategies and activities described below can be introduced in the field of crime prevention and criminal justice to deal with the problem of violence against women. Except where otherwise specified, the term “women” encompasses “girl children”.
2. Recalling the definition of violence against women in the Declaration on the Elimination of Violence against Women⁵ and reiterated in the Platform for Action adopted by the Fourth World Conference on Women, held at Beijing from 4 to 15 September 1995,⁶ the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice build on the measures adopted by Governments in the Platform for Action, bearing in mind that some groups of women are especially vulnerable to violence.
3. The Model Strategies and Practical Measures specifically acknowledge the need for an active policy of bringing into the mainstream a gender perspective in all policies and programmes related to violence against women and of achieving gender equality and equal and fair access to justice, as well as establishing the goal of gender balance in areas of decision-making related to the elimination of violence against women. The Model Strategies and Practical Measures should be applied as guidelines in a manner consistent with relevant international instruments, including the Convention on the Elimination of All Forms of Discrimination against Women,⁷ the Convention on the Rights of the Child⁸ and the International Covenant on Civil and Political Rights,⁹ with a view to furthering their fair and effective implementation.
4. The Model Strategies and Practical Measures should be implemented by Member States and other entities, without prejudice to the principle of gender equality before the law, in order to facilitate the efforts by Governments to deal with, within the criminal justice system, the various manifestations of violence against women.

⁵ General Assembly resolution 48/104 of 20 December 1993.

⁶ Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995 (A/CONF.177/20 and Add.1), chap.I, resolution 1, annex II.

⁷ General Assembly resolution 34/180, annex, of 18 December 1979.

⁸ General Assembly Resolution 44/25, annex, of 20 November 1989.

⁹ General Assembly resolution 2200 A (XXI), annex, of 16 December 1966.

5. The Model Strategies and Practical Measures are aimed at providing *de jure* and *de facto* equality between women and men. The Model Strategies and Practical Measures do not give preferential treatment to women but are aimed at ensuring that any inequalities or forms of discrimination that women face in achieving access to justice, particularly in respect of acts of violence, are redressed.

I. CRIMINAL LAW

6. Member States are urged:
- (a) To periodically review, evaluate and revise their laws, codes and procedures, especially their criminal laws, to ensure their value and effectiveness in eliminating violence against women and remove provisions that allow for or condone violence against women;
 - (b) To review, evaluate and revise their criminal and civil laws, within the framework of their national legal systems, in order to ensure that all acts of violence against women are prohibited and, if not, to adopt measures to do so;
 - (c) To review, evaluate and revise their criminal laws in order to ensure that:
 - (i) Persons who are brought before the courts on judicial matters in respect of violent crimes or who are convicted of such crimes can be restricted in their possession and use of firearms and other regulated weapons, within the framework of their national legal systems;
 - (ii) Individuals can be prohibited or restrained, within the framework of their national legal systems, from harassing, intimidating or threatening women.

II. CRIMINAL PROCEDURE

7. Member States are urged to review, evaluate and revise their criminal procedure, as appropriate, in order to ensure that:
- (a) The police have, with judicial authorization where required by national law, adequate powers to enter premises and conduct arrests in cases of violence against women, including confiscation of weapons;
 - (b) The primary responsibility for initiating prosecutions lies with prosecution authorities and does not rest with women subjected to violence;
 - (c) Women subjected to violence have an opportunity to testify in court proceedings equal to that of other witnesses and that measures are available to facilitate such testimony and to protect their privacy;
 - (d) Rules and principles of defence do not discriminate against women, and such defences as honour or provocation do not allow perpetrators of violence against women to escape all criminal responsibility;
 - (e) Perpetrators who commit acts of violence against women while voluntarily under the influence of alcohol or drugs are not absolved of all criminal or other responsibility;

- (f) Evidence of prior acts of violence, abuse, stalking and exploitation by the perpetrator is considered during court proceedings, in accordance with the principles of national criminal law;
- (g) The courts have, subject to the national constitution of their State, the authority to issue protection and restraining orders in cases of violence against women, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties, inside and outside of the domicile, and to impose penalties for breaches of these orders;
- (h) Measures can be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation;
- (i) Safety risks are taken into account in decisions concerning non- or quasi-custodial sentences, the granting of bail, conditional release, parole or probation.

III. POLICE

8. Member States are urged, within the framework of their national legal systems:

- (a) To ensure that the applicable provisions of laws, codes and procedures related to violence against women are consistently enforced in such a way that all criminal acts of violence against women are recognized and responded to accordingly by the criminal justice system;
- (b) To develop investigative techniques that do not degrade women subjected to violence and minimize intrusion, while maintaining standards for the collection of the best evidence;
- (c) To ensure that police procedures, including decisions on the arrest, detention and terms of any form of release of the perpetrator, take into account the need for the safety of the victim and others related through family, socially or otherwise and that these procedures also prevent further acts of violence;
- (d) To empower the police to respond promptly to incidents of violence against women;
- (e) To ensure that the exercise of police powers is undertaken according to the rule of law and codes of conduct and that the police may be held accountable for any infringement thereof;
- (f) To encourage women to join police forces, including at the operational level.

IV. SENTENCING AND CORRECTIONS

9. Member States are urged, as appropriate:

- (a) To review, evaluate and revise sentencing policies and procedures in order to ensure that they meet the goals of:
 - (i) Holding offenders accountable for their acts related to violence against women;
 - (ii) Stopping violent behaviour;

- (iii) Taking into account the impact on victims and their family members of sentences imposed on perpetrators who are members of their families;
 - (iv) Promoting sanctions that are comparable to those for other violent crimes.
- (b) To ensure that a women subjected to violence is notified of any release of the offender from detention or imprisonment where the safety of the victim in such disclosure outweighs invasion of the offender's privacy;
 - (c) To take into account in the sentencing process the severity of the physical and psychological harm and the impact of victimization, including through victim impact statements where such practices are permitted by law;
 - (d) To make available to the courts through legislation a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence;
 - (e) To ensure that the sentencing judge is encouraged to recommend treatment of the offender at the time of sentencing;
 - (f) To ensure that there are appropriate measures in place to eliminate violence against women who are detained for any reason;
 - (g) To develop and evaluate offender treatment programmes for different types of offenders and offender profiles;
 - (h) To protect the safety of victims and witnesses before, during and after criminal proceedings.

V. VICTIM SUPPORT AND ASSISTANCE

10. Member States are urged, as appropriate:

- (a) To make available to women who have been subjected to violence information on rights and remedies and on how to obtain them, in addition to information about participating in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings;
- (b) To encourage and assist women subjected to violence in lodging and following through on formal complaints;
- (c) To ensure that women subjected to violence receive, through formal and informal procedures, prompt and fair redress for the harm that they have suffered, including the right to seek restitution or compensation from the offenders or the State;
- (d) To provide for court mechanisms and procedures that are accessible and sensitive to the needs of women subjected to violence and that ensure the fair processing of cases;
- (e) To establish a registration system for judicial protection and restraining orders, where such orders are permitted by national law, so that police or criminal justice officials can quickly determine whether such an order is in force.

VI. HEALTH AND SOCIAL SERVICES

11. Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate:
 - (a) To establish, fund and coordinate a sustainable network of accessible facilities and services for emergency and temporary residential accommodation for women and their children who are at risk of becoming or who have been victims of violence;
 - (b) To establish, fund and coordinate services such as toll-free information lines, professional multidisciplinary counselling and crisis intervention services and support groups in order to benefit women who are victims of violence and their children;
 - (c) To design and sponsor programmes to caution against and prevent alcohol and substance abuse, given the frequent presence of alcohol and substance abuse in incidents of violence against women;
 - (d) To establish better linkages between medical services, both private and emergency, and criminal justice agencies for purposes of reporting, recording and responding to acts of violence against women;
 - (e) To develop model procedures to help participants in the criminal justice system to deal with women subjected to violence;
 - (f) To establish, where possible, specialized units with persons from relevant disciplines especially trained to deal with the complexities and victim sensitivities involved in cases of violence against women.

VII. TRAINING

12. Member States, in cooperation with non-governmental organizations, including organizations seeking women's equality, and in collaboration with relevant professional associations, are urged, as appropriate:
 - (a) To provide for or encourage mandatory cross-cultural and gender-sensitivity training modules for police, criminal justice officials, practitioners and professionals involved in the criminal justice system that deal with the unacceptability of violence against women, its impact and consequences and that promote an adequate response to the issue of violence against women;
 - (b) To ensure adequate training, sensitivity and education of police, criminal justice officials, practitioners and professionals involved in the criminal justice system regarding all relevant human rights instruments;
 - (c) To encourage professional associations to develop enforceable standards of practice and behaviour for practitioners involved in the criminal justice system, which promote justice and equality for women.

VIII. RESEARCH AND EVALUATION

13. Member States and the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, relevant entities of the United Nations system, other relevant

international organizations, research institutes, non-governmental organizations, including organizations seeking women's equality, are urged, as appropriate:

- (a) To develop crime surveys on the nature and extent of violence against women;
- (b) To gather data and information on a gender-disaggregated basis for analysis and use, together with existing data, in needs assessment, decision-making and policy-making in the field of crime prevention and criminal justice, in particular concerning:
 - (i) The different forms of violence against women, its causes and consequences;
 - (ii) The extent to which economic deprivation and exploitation are linked to violence against women;
 - (iii) The relationship between the victim and the offender;
 - (iv) The rehabilitative or anti-recidivistic effect of various types of intervention on the individual offender and on the reduction of violence against women;
 - (v) The use of firearms, drugs and alcohol, particularly in cases of violence against women in situations of domestic violence;
 - (vi) The relationship between victimization or exposure to violence and subsequent violent activity;
- (c) To monitor and issue annual reports on the incidence of violence against women, arrest and clearance rates, prosecution and case disposition of the offenders;
- (d) To evaluate the efficiency and effectiveness of the criminal justice system in fulfilling the needs of women subjected to violence.

IX. CRIME PREVENTION MEASURES

14. Member States and the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate:
- (a) To develop and implement relevant and effective public awareness and public education and school programmes that prevent violence against women by promoting equality, cooperation, mutual respect and shared responsibilities between women and men;
 - (b) To develop multidisciplinary and gender-sensitive approaches within public and private entities that participate in the elimination of violence against women, especially through partnerships between law enforcement officials and the services that are specialized in the protection of women victims of violence;
 - (c) To set up outreach programmes for offenders or persons identified as potential offenders in order to promote the peaceful resolution of conflicts, the management and control of anger and attitude modification about gender roles and relations;
 - (d) To set up outreach programmes and offer information to women, including victims of violence, about gender roles, the human rights of women and the social, health, legal and economic aspects of violence against women, in order to empower women to protect themselves against all forms of violence;

- (e) To develop and disseminate information on the different forms of violence against women and the availability of programmes to deal with that problem, including programmes concerning the peaceful resolution of conflicts, in a manner appropriate to the audience concerned, including in educational institutions at all levels;
 - (f) To support initiatives of organizations seeking women's equality and non-governmental organizations to raise public awareness of the issue of violence against women and to contribute to its elimination.
15. Member States and the media, media associations, media self-regulatory bodies, schools and other relevant partners, while respecting the freedom of the media, are urged, as appropriate, to develop public awareness campaigns and appropriate measures and mechanisms, such as codes of ethics and self-regulatory measures on media violence, aimed at enhancing respect for the rights of women and discouraging both discrimination against women and stereotyping of women.

X. INTERNATIONAL COOPERATION

16. Member States and United Nations bodies and institutes are urged, as appropriate:
- (a) To exchange information concerning successful intervention models and preventive programmes in eliminating violence against women and to compile a directory of those models;
 - (b) To cooperate and collaborate at the regional and international levels with relevant entities to prevent violence against women and to promote measures to effectively bring perpetrators to justice, through mechanisms of international cooperation and assistance in accordance with national law;
 - (c) To contribute to and support the United Nations Development Fund for Women in its activities to eliminate violence against women.
17. Member States are urged:
- (a) To limit the extent of any reservations to the Convention on the Elimination of All Forms of Discrimination against Women to those that are formulated as precisely and as narrowly as possible and that are not incompatible with the object and purpose of the Convention;
 - (b) To condemn all violations of the human rights of women in situations of armed conflict, to recognize them as being violations of international human rights and humanitarian law and to call for a particularly effective response to violations of that kind, including in particular murder, systematic rape, sexual slavery and forced pregnancy;
 - (c) To work actively towards ratification of or accession to the Convention on the Elimination of All Forms of Discrimination against Women, for the States that are still not parties to it, so that universal ratification can be achieved by the year 2000;
 - (d) To give full consideration to integrating a gender perspective in the drafting of the statute of the international criminal court, particularly in respect of women who are victims of violence;
 - (e) To cooperate with and assist the Special Rapporteur on violence against women, its causes and consequences in the performance of his or her mandated tasks and

duties, to supply all information requested and to respond to the Special Rapporteur's visits and communications.

XI. FOLLOW-UP ACTIVITIES

18. Member States and United Nations bodies subject to extrabudgetary funds, the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, other relevant international organizations, research institutes, non-governmental organizations, including organizations seeking women's equality, are urged, as appropriate:
 - (a) To encourage the translation of the Model Strategies and Practical Measures into local languages and to ensure its wide dissemination for use in training and education programmes;
 - (b) To utilize the Model Strategies and Practical Measures as a basis, a policy reference and a practical guide for activities aimed at eliminating violence against women;
 - (c) To assist Governments, at their request, in reviewing, evaluating and revising their criminal justice systems, including their criminal legislation, on the basis of the Model Strategies and Practical Measures;
 - (d) To support the technical cooperation activities of the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network in eliminating violence against women;
 - (e) To develop coordinated national, regional and subregional plans and programmes to put the Model Strategies and Practical Measures into effect;
 - (f) To design standard training programmes and manuals for the police and criminal justice officials, based on the Model Strategies and Practical Measures;
 - (g) To periodically review and monitor, at the national and international levels, progress made in terms of plans, programmes and initiatives to eliminate violence against women in the context of the Model Strategies and Practical Measures.