

## Chapter XVII

### VIOLENCE

#### Violence against women

1. Violence against women is a manifestation of historically unequal relations between women and men, an aspect of domination over and discrimination against women. It derives essentially from cultural patterns, certain harmful traditional practices and acts that perpetuate the lower status of women in the family, the workplace, the community and society. Violence against women is exacerbated by social pressures, women's lack of access to legal protection, the lack of effective laws and the propagation of images of violence in the media. The term "violence against women" is today understood to mean any act of gender-based violence – or threat of such an act – that is likely to result in physical, sexual or psychological harm or suffering to women, both in the public and private spheres. It encompasses but is not limited to physical, sexual and psychological violence occurring in the family, within the general community and perpetrated or condoned by the state.<sup>1</sup> This includes violence in the family against women and girls, including sexual abuse, dowry-related violence, marital rape, female genital mutilation and other harmful traditional practices; violence in the community, including sexual harassment at the workplace; and trafficking and forced prostitution.<sup>2</sup>

2. The 1993 World Conference on Human Rights placed particular emphasis on the importance of working towards the elimination of violence against women in public and private life, all forms of sexual harassment, exploitation and trafficking in women, gender bias in the administration of justice, and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism. Further, it stated that treaty-monitoring bodies should include the status of women and the human rights of women in their deliberations and findings, making use of gender-specific data. States should be encouraged to supply information on the *de jure* and *de facto* situation of women in their reports.<sup>3</sup>

3. There is now a widespread and growing recognition that acts and threats of violence against women in both public and private spheres instill fear and insecurity in their lives, exact high social, health and economic costs, and impede the achievement of equality and development. The landmark Declaration on the

Elimination of Violence against Women adopted by the General Assembly recognized that violence against women constitutes a violation of their rights and fundamental freedoms and is a manifestation of the historically unequal power relations between men and women. The Declaration states that there is a need for a clear and comprehensive definition of violence against women and for a commitment by States and the international community to eliminate such violence.<sup>4</sup> There is also recognition, demonstrated in the commitments made by governments at the Fourth World Conference on Women, of the need for a holistic and multidisciplinary approach towards creating violence-free families, communities and States.<sup>5</sup> The Convention on the Elimination of All Forms of Discrimination against Women treats gender-based violence, which impairs women's enjoyment of human rights and fundamental freedoms under general international law, as discrimination.<sup>6</sup>

4. The Committee on the Elimination of Discrimination against Women has also identified a similar range of acts of violence against women. In the public domain, women continue to be targets of gender-based violence, whether during armed conflicts, in the sex trade, at work or in other public places. While entire communities suffer the consequences of armed conflict and terrorism, women and girls are particularly vulnerable. All warring parties, whether state or non-state actors, resort to violence against women, often with impunity. Warring sides have used rape as a weapon to humiliate the opposing community and as a blow to the honour of men of the other group. Women have suffered unspeakable atrocities during recent armed conflicts. They are victims not only of torture, murder and involuntary disappearance but also of sexual slavery and systematic rape, especially as part of "ethnic cleansing." In most cases, women victims of sexual violence have obtained little national and international redress (see chap. XV).

5. The displacement of women during war and/or civil conflict is only one of new and complex forms of migration that have emerged since the 1970s. Other interrelated categories include reverse and return migration from North to South and from urban to rural areas, temporary migration of "rented" labour and illegal forms of international migrant labour arrangements, including trafficking in women.<sup>7</sup> A striking feature of the

new flows is the significant increase in the number of women and their rising ratio to men. In 1990, the numbers of migrant women and men worldwide were, respectively, 57.1 million and 62.6 million. But these figures do not reflect undocumented migrants, especially in the international trafficking business, and therefore underestimate the true number for women.<sup>8</sup> The processes of globalization have in particular swelled the numbers of women migrants in legal and illegal, voluntary and involuntary flows.

6. Migrant women are prone to violence and abuse due to their double marginalization as women and as migrants. They usually lack knowledge of the language and legislation of the host country and fear losing their jobs. Violent acts against these women, both at home and in the workplace, is well documented. Related but not limited to the phenomenon of migrant women are the emergence of trafficking in women and children and the commercial and sexual exploitation, enslavement and violence associated with it. Every year, one to two million women and girls are estimated to be trafficked worldwide, 10,000-100,000 of whom are sold for sexual exploitation.<sup>9</sup> Trafficking of women and children, long a persistent problem in parts of Asia, has surfaced in alarming proportions in some eastern and central European countries with economies in transition. The phenomenon of sex tourism, which has grown in the globalizing economy, has led to the economic exploitation of entire communities through prostitution, including child prostitution.

7. Violence against women in the private domain has tended to be shielded from legal scrutiny and redress because of the application of the public/private distinction. For example, the right to freedom from torture and other cruel, inhuman and degrading treatment, a key civil and political right in all major instruments of international law, covers pain or suffering inflicted by a "public official". In recent years, rights advocates and feminist scholars have pointed out that such a formulation obscures the many forms of violence, pain and injuries suffered by women, typically inflicted by private actors. Their persistent advocacy at the national and international levels has led to a redefinition of domestic violence, removing it from the cloistered "private" sphere. Domestic violence is now recognized as violence that occurs in the domestic sphere, perpetrated by both private and state actors, and as a violation of the human rights of women. Under human rights law, Governments are obliged to refrain from committing human rights violations as well as to prevent and respond to abuses. Such a formulation calls on States to ensure that these are not crimes of impunity and that perpetrators of such violence are brought to justice.

8. Such an extensive formulation of domestic violence has been critical to the passage of progressive

legal measures in several countries and to changing official perceptions of the pernicious problem. Laws, though important and long overdue, however have not succeeded in eradicating the violence suffered by women within the home. Seventeen primary survey studies undertaken around the world between 1990 and 1997 found that anywhere between 20 to 50 per cent of women surveyed reported physical abuse by intimate partners.<sup>10</sup> Depending on the country, 25 to 75 per cent of women face frequent battering at home (see table XVII.1).

9. "Crimes of honour" are reported to be commonplace in many countries, especially in rural areas. The cause may be a woman's refusal of marriage, a decision to divorce, or most often marital infidelity. For example, in 1998 500 women were killed in one country, supposedly to uphold their families' honour.<sup>11</sup>

10. Female genital mutilation, sanctified by cultural beliefs and norms, is practised in 28 African countries and a few countries in Asia.<sup>12</sup> It is also prevalent among immigrant communities in some European countries, Australia and the United States of America.

11. At the international level, the drafting of the Convention against Transnational Organized Crime has continued since early 1999, with three additional protocols relating to the illegal transportation of and trafficking in migrants and trafficking in human beings, especially women and children. On 10 December 1999, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, allowing women to seek redress for violations of their human rights, including gender-based violence, was opened for signature, ratification and accession. As of end-1999, 23 Member States had signed this instrument.

12. Over the last two decades, large-scale violence against women in times of conflict has become a focus of international concern and legal attention. One historic advance has come with the establishment of ad hoc international tribunals for the prosecution of war crimes committed in former Yugoslavia and Rwanda. In a number of trials, specific defendants have been charged with sexual violence as a war crime, a crime against humanity, genocide, enslavement, a grave breach and enforcement of prostitution, depending on the particular circumstances of the case under consideration.<sup>13</sup> The statute of the International Criminal Court builds on provisions governing the Tribunals for former Yugoslavia and Rwanda and the practices of those Tribunals, and specifically addresses gender-based international crimes.

13. At the regional level, 29 United Nations Member States in Latin America and the Caribbean ratified the 1994 Inter-American Convention on the

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prevention, Punishment and Eradication of Violence against Women. This instrument imposes on States parties to the Convention immediate and progressive obligations to eliminate violence against women. It also provides individuals with communication means on the relevant issues. In Europe, the Hague Ministerial Declaration on the European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation was adopted in December 1998. In Asia, the South Asian Association for Regional Cooperation continues its work to develop a subregional Convention against Trafficking in Women and Girls. In May 1999, member States of the West African Economic and Monetary Union issued a joint Declaration (the Ouagadougou Declaration) that calls for the adoption of national legislation condemning female genital mutilation and for special measures to curtail such practices.

14. The translation of international instruments into national legislation has in some cases been sluggish due to controversy surrounding some forms of violence against women (such as female genital mutilation). Another factor constraining the criminalization process is the potential cost of enforcement of new legislation and the provision of support services (such as shelters for abused women and their children and counseling), especially in developing countries.

15. The major focus of national efforts to eradicate violence against women has been on reforming national legislation to provide women with comprehensive legal protection from various forms of violence. Domestic violence has for the first time been deemed a penal offence in a number of countries. Others have adopted specific criminal and civil provisions to address it. Nine countries in Africa have specific laws against female genital mutilation.

16. Responding to sex tourism offences, Australia, Belgium and Canada have adopted criminal provisions against “sex tourism”, allowing for the prosecution of acts of sexual abuse committed abroad by their nationals. Canada, Belgium, Ethiopia and Mexico have modified their criminal codes to make sex tourism offences against minors serious crimes.

17. Some States have removed legal provisions that may increase the risk of abuse for some categories of women. Germany, for example, has revised residency requirements, giving independent residency rights to female migrants. Mexico has revised its legal framework governing migration and introduced the national programme for the protection of migrants, which has led to a noticeable reduction in violence against migrant women. Iceland has adopted new legislation providing for state compensation of criminal activity, including violence against women and female migrants.

18. Some States have undertaken evidentiary and procedural reforms to encourage victims of abuse to come forward. For example, Antigua and Barbuda, Austria, Italy and Turkey have introduced civil orders, with restraining provisions and exclusion injunctions specifically applicable to domestic violence cases. Many countries have set up shelters for abused women and their children, although in most of them such services tend to concentrate in large cities and are not available in rural areas. Nor does the number of shelters, in most cases, meet demand.

19. Given the cultural underpinnings of gender-based violence, the cooperation of agents of socialization (such as the Church, the educational establishment, the mass media and the family) and non-governmental organizations in its eradication is of paramount importance. Many countries have employed innovative methods suitable to local conditions to create a community consensus that violence against women is unacceptable. Canada, Indonesia, Italy and the United Kingdom have launched “zero tolerance” campaigns. Several States, such as Canada and Australia, have developed specific educational materials for migrant and aboriginal populations. Some other countries, such as Iceland, have set up educational programmes targeting abusive men. A number of African States (including Burkina Faso, Ethiopia, Kenya, the Niger, Nigeria and Togo) have opened a national dialogue on the harmful implications of female genital mutilation, including religious leaders and community representatives in it.<sup>14</sup> Countries worldwide are also making progressive use of new technologies to reach families and communities, victims and their abusers, to share experience and disseminate information about progress in legislation and the availability of protection options, advocacy and education.

20. International human rights principles and conventions have played a role in advancing asylum adjudications based on gender-related claims in some countries, notably Canada, the United Kingdom and the United States.

21. Progress in the movement for gender equality has put the spotlight on the need for the eradication of violence against women. Demographic, technological and economic processes force societies to adapt to new realities for survival. The entire development process calls for a revision of gender roles. A systemic societal change, however, does not happen overnight, given the complexities of societal organization and human relationships, including social practices, values and beliefs.

### **Violence against children**

22. Increasing violence against children has been

one of the most disturbing trends over the past two decades. It implies the erosion of fundamental institutions of society, such as the family and the community, as well as mechanisms of social control, since most societies tend to protect their young by controlling violence against them. Among the contributing factors, the breakdown of society appears to be a key one. During ethnic and civil clashes of the 1990s in many parts of the world, warring parties destroyed social and economic structures and displaced, killed and mutilated hundred thousands of civilians, including children. More than two million children were killed, more than six million were injured or permanently disabled, more than one million were orphaned or separated from their families and more than 15 million were displaced and in refuge.<sup>15</sup>

23. In most conflicts, warring parties recruited thousands of child soldiers (see chap. XV). Many of them suffer psychological trauma from violent experience and cannot return to their families and communities. Others have remained on the path of violence, joining criminal gangs.

24. Wartime exploitation of children also takes the form of sexual abuse. Children have been sexually abused in many ongoing or post-conflict situations. The destruction, hunger and desperation that usually accompany communal conflicts have also pushed many children into prostitution in exchange for food or shelter, safe conduct through the war zone or to obtain papers or other privileges for themselves and their families.

25. According to some observers, families in refuge or in war zones frequently compel children into prostitution to secure greater protection for themselves from paramilitary forces. Apart from the war factor, economic troubles have contributed to the growth of violence against children. Mass poverty in many developing countries have fashioned conditions under which child labour remains an important if not the only source of income. According to the ILO, of the 120 million children between the ages of five and 14 who work full time in developing countries, 56 million work under hazardous conditions, including being subject to physical abuse. In the poorest countries of Asia, the sale of children into servitude perseveres despite all efforts to curb it. Available estimates suggest that in South Asia alone 20 to 40 million children have been toiling as slaves at loom, carpet, brick or tobacco factories and plantations, paying off the debts of their impoverished families. Developed countries are not immune to the problem either. Exploitative child labour is reported to be on the rise in central and eastern Europe, especially in rural areas. In developed countries, it is children of ethnic minorities, immigrants and marginalized groups who are subjected to hazardous forms of child labour. With the growth in tourism, sex tourism in particular,

there has been a spurt in the sale of children into prostitution, especially in countries with a booming sex sector.

26. Acute and mass poverty and a lack of income opportunities for adults propels the business of child prostitution in communities and/or countries that have become major suppliers of children for the international sex market. Furthermore, a shift in child exploitation from labour to sex services (even in countries with relatively stable economic growth and improved social welfare) shows that the returns to families from the sale of children into prostitution are much higher than from child traditional child work.<sup>16</sup> The high demand for sexual services – furthered in recent years by a proliferation of Internet web sites catering to buyers and sellers has transformed child prostitution into a lucrative business for brothel owners and child smugglers. Some estimates put annual revenue from child prostitution at a staggering \$5 billion.<sup>17</sup>

27. In developed countries, the major cause of child prostitution has been found to be dysfunctional family life. Children in such families suffer physical, emotional and/or sexual abuse and as a result have low self-esteem. This lethal combination contributes to their becoming victims of manipulation. Many of these children run away from abusive families to find themselves in the hands of pimps.

28. Among all categories of children, street children are the most vulnerable and are consequently more often subjected to violence, including by state agents. Anywhere between 15 and 30 million children live on the streets of major metropolitan areas of the world, and their number is growing.<sup>18</sup> The phenomenon is starkly evident in some countries in transition.

29. An emerging pattern of violence against children is the abuse of various illicit substances. UNICEF notes that illicit substance abuse, although self-inflicted, represents a violation of the rights of the child by those who make these substances easily accessible to children in order to create a market and generate profits. The consumption of illicit substances by children and youth, induced by adults, represents a form of violence against children. There is, however, another side to the problem – the demand side. The fact that substance abuse among children and adolescents has been on the rise in many regions points to the existence of problems with which children and teenagers cannot cope on their own. It also implies that society or family support for the young is inadequate.

30. Several international instruments provide a broad framework for combating violence against children in all its forms. These include the Convention on the Rights of the Child (1989), the ILO Forced Labour Convention (1930), Abolition of Forced Labour

Convention (1957), Minimum Age Convention (1973), and the Convention on the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949).

31. A key international legal instrument is the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction (entered into force on 1 March 1999). The Convention aims to eliminate threats to civilians, children in particular, from unexploded land mines and bombs in the areas of past and present conflicts. Worldwide, landmines kill or maim about 26,000 people a year on average, half of whom are children and women. The Optional Protocol to the Convention on the Rights of the Child raised the minimum age for children's recruitment into armed forces and participation in armed conflict from 15 to 18 years.<sup>19</sup> Some warring parties in different parts of the world (southern Sudan and Sri Lanka, for example) have agreed to honour the recommendations of UNICEF in this regard. Some, however, refuse to comply.

32. Most countries have signed and ratified key international instruments, although only a few have incorporated their provisions in national laws. Through the 1990s, concerns about the globalization of some forms of violence against children, particularly trafficking and commercial sexual exploitation, have galvanized national legislative measures. But laws have not been effective enough in preventing and eradicating the problem. The high profitability of child trafficking and commercial child sex exploitation has weakened the resolve of officials in some countries to enforce the law.

33. There have been advances, mainly in industrial countries, where laws have been extended to the private domain to address domestic abuse of children. Age restrictions have been introduced in the sale of tobacco and alcohol to children and initiatives launched to combat illicit drug-trafficking and distribution. Educational campaigns and counseling and rehabilitation services, both to victims and perpetrators, have often accompanied these legislative actions. Communities, non-governmental organizations, the media and the corporate sector have been increasingly involved in preventive activities, creating an intolerant environment for perpetrators.

34. In developing countries, penalizing some forms of violence against children has been complicated by not only economic but attitudinal factors. Parents and children often view the sale of a child into servitude as a sacrifice for family survival. Prostitution, stigmatized in the past, has come to be increasingly legitimized as an economic activity, substituting traditional child work on farms and in households. Moreover, the booming sex sector has had a corruptive effect on individuals and officials. Given the various factors that sanction and

perpetuate violence against children, it is clear that legislative action has to be backed by a combination of schemes. Especially important are employment and income-generating programmes for parents to reduce their dependence on children's income and ensure their compliance with child protection legislation.

35. International commitment to the protection of the child has gained new momentum with the universal support for the 1999 ILO Convention on the Immediate Abolition of the Worst Forms of Child Labour.

### **Prostitution**

36. Prostitution is generally viewed as a deviation from established norms of behaviour. Prostitution, the sale of sex services for a monetary reward, can be considered a social problem because of the consistently negative public attitudes towards it.

37. The degree of tolerance of prostitution varies, with some societies stigmatizing and punishing it and some legalizing and institutionalizing it. Increasingly, prostitution has been regarded as a form of violence by some and as a form of employment by some others, marking a deepening divide between those who advocate the criminalization of prostitution and those who are in favour of its legalization. Meanwhile, the rapid expansion of prostitution in many developing and some industrial countries is associated with serious problems of violence and the spread of HIV/AIDS, which require an immediate response. Measures of redress in turn depend on an understanding of the phenomenon of prostitution and a more precise identification of the forces that have been driving its growth.

38. A number of recent cross-country studies have found that prostitutes in different countries share some common characteristics. First, most of them were deceived and coerced into prostitution. Second, prolonged and repeated trauma usually precedes entry into prostitution. Between 55 and 80 per cent of those in prostitution report a history of childhood sexual abuse. Third, operating outside the law in many countries, prostitutes continuously endure physical and sexual violence from pimps and brothel operators. As a result of violence and bodily exploitation, women and girls in prostitution had a mortality rate 40 times higher than the national average according to a Canadian report.<sup>20</sup> Fourth, in most countries the majority of prostitutes come from poor backgrounds. In developed countries, most come from broken families and marriages. They lack marketable skills, education and training. Economic factors are decisive for those entering prostitution in developing countries – as much as 90 per cent cited poverty as a reason – and economies in transition.

39. The eradication of prostitution requires a

multidimensional and country-specific approach because the primary causes of prostitution vary according to the circumstances and conditions of prostitution. The significant role of the sex sector in generating employment and income cannot be ignored. According to an ILO study, the financial turnover of the sex sector in Indonesia has been estimated at between US\$1.2 and 3.3 billion per year, or between 0.8 and 2.4 per cent of GDP. In Thailand, remittances from prostitutes to families in rural areas amount to about US\$300 million each year.<sup>21</sup> The commercial sex industry employs thousands of other people, including taxidrivers, recruiters and agents, and waitresses, housekeepers and cooks in brothels.

40. Prostitution persists in many countries for a variety of reasons other than the entrenched attitudes and structures that undermine gender equality. These include a collapse of social and economic order due to conflict (as in some parts of Africa) or a breakdown of formal structures purportedly safeguarding gender equality in the public domain (as in the economies in transition).

41. The increased interaction of socio-economic systems in the age of globalization can accentuate vulnerabilities in weaker societies and provide powerful economic incentives for deviant social behaviour. If there is demand from advanced societies for prostitution in weaker ones, the institutional systems in the latter will reinforce the inequalities that underlie prostitution. These aspects of interaction between systems may cause a backlash in a more advanced one through international channels. Evidence that it is already happening may be seen in a proliferation of trafficking in women for prostitution from and to industrial countries, a widening involvement of citizens of industrial countries into the provision of sex services in both directions, a rise of child pornography and child prostitution and the globalized nature of organized crime (see chap. XVIII). The alleviation of prostitution requires concerted efforts of countries of supply and demand.

42. Some efforts to combat prostitution have been moving in this direction. Australia, Denmark, France, Germany, Ireland, Iceland, Italy, Norway and Switzerland are among developed nations that have extended their criminal laws to cover sex crimes, especially against minors, committed by their citizens abroad. Thailand is among developing Asian nations that have introduced severe penalties for brothel owners who exploit children. Some developing countries have set up income-generation schemes as an alternative to prostitution. Many others have launched educational campaigns to prevent young girls from being coerced into prostitution and to halt the spread of sexually transmitted diseases. The question of institutionalizing prostitution to reduce the threat of disease and violence is on the public agenda of many countries.

## Violence against older persons

43. The mistreatment of older persons is not a new phenomenon. However, as a social concern in developed countries, the abuse of older persons only dates back to the mid-1970s. Its emergence was a result of public disclosures about family violence and concern about the increasing numbers of older persons who no longer could care for themselves and whose families were not available or able to care for them.

44. In developing countries, abuse is often related to economic difficulties and rapid changes in tradition/customs regarding respect for the older person and in care-giving responsibilities. Cultural superstitions also play a role, and while they do not typically “discriminate” by age, superstitions strongly affect older persons’ lives due to declining support systems which, among many other benefits, help to ward off the superstitions. Older women, for example, are targeted as practitioners of witchcraft in some regions. Although there is no systematic collection of abuse statistics or prevalence surveys in the developing world, crime records, journalistic reports, social welfare records and small-scale studies contain evidence of abuse, neglect and financial exploitation of older persons.<sup>22</sup>

45. Several factors increase older persons’ risk of abuse in developing countries. These include changes in family values that weaken family ties; the education of children, which places heavy demands on young parents for financial resources, energy and physical space; loss of shelter, particularly for older women, who have no legal or customary right to property or who give over custody of home to their children; migration of young people in search of jobs; and policies of age segregation that leave elders without opportunities for employment.

46. In times of war, civil strife, conflict and natural disasters, older persons are more likely to be affected by physical harm than younger people. They are physically weaker, their bones more brittle and their rate of convalescence from bodily injury slower. When forced to flee from their homes, older people are less able to travel the distance to find food or live without shelter. The economic crisis in some eastern and central European countries has robbed elders of their pensions and adequate health and welfare services. Faced with violence, older persons may become virtual prisoners in their own homes. Still another catastrophe, the HIV/AIDS epidemic, has forced older women in several African countries living under the most dire circumstances to take on added burdens of caring for children and grandchildren with AIDS or orphaned grandchildren.

47. Abuse of older persons can be defined as “a single or repeated act or lack of appropriate action occurring within any relationship where there is an

expectation of trust, which causes harm or distress to an older person".<sup>23</sup> It can be intentional or unintentional and of one or more types – physical, psychological (emotional), financial and sexual. Whether the behaviour is labelled abusive, neglectful or exploitative may depend on its frequency, duration, intensity, severity and consequences. Abuse against older persons can take several forms, such as striking, burning, threatening, humiliating, isolating, abandoning, starving and rendering them homeless. The legal sanction of women's unequal property rights in most parts of the world has led families and communities to rationalize the denial of shelter to older women. As the world has grown more conscious of issues of family violence and human rights, some long-held traditions, such as property-grabbing from African widows, abandonment of South Asian widows or allegations of witchcraft have come to be viewed as abusive acts requiring not only action against individuals but changes in community and societal values.

48. Statutory and professional definitions must often take into account the older person's perception of abuse and the cultural context, which may be key factors in identification and intervention. Moreover, behaviour analysts have pointed out that relationship dynamics set early in life often endure into later life (as in recurrent child abuse syndrome). While dysfunction can set in as a result of deteriorating external influences, such as increased poverty and accompanying stresses, the established relationship itself plays a significant role in elder abuse.

49. Although the emphasis in the past quarter of a century has been on interpersonal abuse within the family setting, there is widely documented evidence of abuse, neglect and exploitation in nursing and residential care homes. From four to five per cent of elders in developed nations are reported to reside in long-term care facilities, less than one per cent in some developing countries or none in others. Ironically, as developed nations are attempting to shift the emphasis away from institutionalized care for older persons, demographic and societal changes are pulling Governments in some developing countries towards long-term residential care.

50. Cases of abuse of older persons often involve a myriad of problems of a medical, psychological, legal, social, environmental, criminal justice and financial nature. Recognition that violence results from a complex interplay of individual, interpersonal, social contextual and societal factors can help in understanding the causes of the problem and in promoting multi-level interventions.

51. One team of researchers has categorized intervention in five different models: social network, advocacy, care management, domestic violence and legal intervention.<sup>24</sup> Programmes may combine two or more

of these approaches.

52. The social network model makes use of informal support systems of family, friends, neighbors, peers and local community organizations to enable service providers to disseminate information, increase community awareness, identify cases and inform victims about services. In Guatemala, blind older people who were being rejected from their homes by their families formed a committee, created a safe house for themselves and developed handicrafts and income-producing projects in the community.

53. Older persons who are abused need lots of help, but when a community network is strong, the chances are greater that the persons involved will have more opportunities for outlets and ways to channel emotions beyond the immediate relationship, which may play a role in discouraging abusive situations. Most important, older persons need to be involved in defining issues that concern them and planning policies and services.

54. The advocacy model recognizes that victims of abuse are adults in a vulnerable position, and advocates act on their behalf to guarantee their rights and to obtain needed services. It assumes that existing family supports, legal mechanisms and community services can be used to assist abused older persons and their families. For example, the Aged Rights Advocacy Service Abuse Prevention Program serving elders in Adelaide, Australia, provides information and educational sessions about rights of older people, supports older people or their representatives to pursue their rights and to stop the abuse, and assists with strategies to plan for future protection.

55. The social work intervention model makes use of protocols to collect medical, functional, social, psychological, environmental and sociodemographic data on the victim and information on circumstances leading to the mistreatment. On the basis of the comprehensive assessment, a plan for managing services is developed. A municipally established programme in Oslo follows this pattern.

56. The realization that much abuse of older persons is in fact spouse abuse has promoted interest in the domestic violence model of intervention. For younger women, the model provides emergency shelter and the opportunity to form relationships with others. Through sharing similar experiences, the women gain psychological resources to deal with their fear, self-doubt, stress and anxiety. The eventual goal is to improve self-esteem and enhance coping abilities. The Finnish Federation of Mother and Child Homes and Shelters established an elder abuse project in cooperation with a local nursing home and the open care system. It consists of emergency shelter beds located in the nursing home, a telephone helpline and a victim support group



that meets on a bi-weekly basis.

57. The legal approach is most closely identified with the system of adult protective services established in the United States. Each state has passed legislation that designates an adult protective services unit, with responsibility for receiving reports of suspected elder mistreatment, screening for potential seriousness, conducting a comprehensive assessment, if indicated, and developing a care plan. In 43 states, the law makes it mandatory for certain categories of individuals (e.g., physicians, social workers, nurses) to report a case if there is reason to believe that abuse, neglect or exploitation has taken place. Critics maintain that while it may be appropriate for child abuse, mandatory reporting infantilizes the elder's position in society, fosters negative stereotypes of the aged and limits older persons' ability to control their own lives.

58. Almost all abuse projects carry out community education and professional training aimed at empowerment, self-reliance and improving the self-image of older persons. They counsel families on how to prevent abuse and inform older persons about options for help in the event of abuse. They also train professionals who work with older persons to recognize signs and symptoms and make referrals to community resources. Such activities have been reported in Canada, Australia, the United Kingdom, South Africa, Germany, New Zealand, Norway and Costa Rica. A national helpline is operating in the United Kingdom and local demonstration projects in Japan, France, Spain and Germany.

#### **Violence against persons with disabilities**

59. Persons with disabilities are exposed to various forms of violence, such as physical abuse, sexual abuse, psychological and emotional abuse, neglect and acts of omission and financial exploitation. Violence against such persons occurs in a variety of settings and environments. It is inextricably linked with inequities in relationships between persons with disabilities and others – exacerbated by gender, ethnicity, class and socio-economic and cultural factors – especially in institutional settings.

60. However, there are no accurate statistics about the incidence of violence against persons with disabilities because definitions of violence and methodologies in reporting vary.<sup>25</sup> At the conceptual level, violence against the disabled is viewed as occurring in the context of systemic discrimination, in which there is often an imbalance of power. Such violence includes both overt and subtle forms of abuse that may or may not be considered criminal acts.<sup>26</sup>

61. Although awareness of the problem of trauma in persons with disabilities is relatively new, an emerging body of research from developed nations indicates that such persons are especially vulnerable to trauma exposure and its consequences. For example, the strong dependence of persons with disabilities on others for getting their needs met increases their vulnerability to exploitation and injury. Persons with psychiatric disabilities, in particular, are exceptionally sensitive to the effects of stress, which in turn affects their illness and overall functional capacity.

62. Available research indicates that disabled children represent a disproportionate number of all child abuse victims.<sup>27</sup> Children with physical disabilities are more likely to be maltreated, including physical and sexual abuse.<sup>28</sup> Many impairments suffered by children and their disabling impact are caused by the environments adults have created – poverty, war, child labour, violence and abuse, environmental pollution and lack of access to appropriate health care.<sup>29</sup> There are, however, inconsistent estimates of the extent of increased risk and some studies that fail to demonstrate a relationship.<sup>30</sup> In addition, the lack of a uniform data-collection system is compounded by the failure of child protection systems to recognize and document conditions of children with disabilities, due in part to attitudes, training and intervention criteria.<sup>31</sup>

63. Various international instruments make explicit or implicit reference to violence against persons with disabilities.<sup>32</sup> Together with the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (articles 7 and 9 (1)) and the International Covenant on Economic, Social and Cultural Rights provide the foundation for equal treatment and protection of persons with disabilities to fully exercise their civil, political, social and cultural rights. The right to respect for human dignity and protection against degrading treatment is one of the most important elements in protecting the human rights of persons with disabilities. The international community emphasizes the right of children with disabilities to both physical and mental health, particularly children living in situations of violence and its aftermath<sup>33</sup> (see chap. XV). The Standard Rules on Equalization of Opportunities for Persons with Disabilities provides Governments with practical tools to improve the quality of life, livelihood and well-being of persons with disabilities.

64. Despite an extensive international normative framework, the issue of violence against persons with disabilities has not yet been accorded due attention. Specific conditions/requirements should be re-examined in the formulation of policies concerning them.

## NOTES

<sup>1</sup> United Nations, General Assembly, Declaration on the Elimination of Violence against Women, Article 2, (A/RES/48/104), 23 February 1994.

<sup>2</sup> Ibid. See also United Nations, Beijing Declaration and Platform for Action, adopted at the United Nations Fourth World Conference on Women, Beijing, China, 4-15 September, 1995 (A/CONF.157/23), Strategic Objective D, Violence Against Women.

<sup>3</sup> United Nations, Vienna Declaration and Programme of Action, World Conference on Human Rights, Vienna, 14-25 June 1993, A/CONF.157/23, 12 July 1993, [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.2.3.En?OpenDocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.2.3.En?OpenDocument)

<sup>4</sup> UN General Assembly, Declaration on the Elimination of Violence against Women (A/RES/48/104), 23 February 1994. Article 1 of the Declaration defines the term “violence against women” as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”

<sup>5</sup> UN ECOSOC, Commission on Human Rights, Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission, Alternative Approaches and Ways for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms, Report of the Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, submitted in accordance with Commission resolution 1995/85; E/CN.4/1996/53, 6 February 1996.

<sup>6</sup> Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (A/34/180); <http://www.un.org/womenwatch/daw/cedaw/index.html>. The Optional Protocol to the 1979 Convention was adopted by the General Assembly on 6 October 1999 (A/RES/54/4).

<sup>7</sup> United Nations, 1999 World Survey on the Role of Women in Development, p. 31.

<sup>8</sup> United Nations, Department of Economic and Social Affairs, Population Division, Trends in Total Migrant Stock, Revision 4 (POP/1B/96/1/Rev.4), cited in United Nations, 1999 World Survey on the Role of Women in Development, p. 33.

<sup>9</sup> Trafficking in Women and Girls, An International Human Rights Violation. U.S. Government fact sheet, March 10 1998; <http://www.state.gov/www/global/women/fs-980310-women-traffic.html>

<sup>10</sup> World Health Organization, Domestic Violence (1997).

<sup>11</sup> UN ECOSOC, Commission on Human Rights. The Implementation of the Human Rights of Women, Traditional Practices Affecting the Health of Women and the Girl Child. E/CN.4/Sub.2/1999/14, July 1999.

<sup>12</sup> World Health Organization, Female Genital Mutilation; <http://www.who.org/frh-whd/FGM/f-defini.htm>

<sup>13</sup> UN ECOSOC, Commission on Human Rights. Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission, Alternative Approaches and Ways for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission resolution 1997/44; UN

documents: E/CN.4/1998/54, 26 January 1998.

<sup>14</sup> UN Economic Commission for Africa, Implementation of the Dakar/Ngor Declaration and Programme of Action of the International Conference on Population and Development: An Assessment of African Experience; FSSDD/ICPD/FC.3/98/3, September 1998

<sup>15</sup> UNICEF, The State of the World’s Children, 2000. UNICEF, Sales no. E.00.XX.1, p.79.

<sup>16</sup> The Sex Sector. The Economic and Social Bases of Prostitution in Southeast Asia, edited by Lin Lean Lim, Geneva: ILO, 1998, p.181.

<sup>17</sup> The Sex Sector. The Economic and Social Bases of Prostitution in Southeast Asia, edited by Lin Lean Lim, Geneva: ILO, 1998, p.170.

<sup>18</sup> The Sex Sector. The Economic and Social Bases of Prostitution in Southeast Asia, edited by Lin Lean Lim, Geneva: ILO, 1998, p.185.

<sup>19</sup> United Nations High Commissioner for Human Rights, Draft Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (submitted to the Commission on Human Rights at its fifty-sixth session, 20 March-28 April, 2000); <http://www.unhcr.ch/html/menu2/6/protocolchild.htm>

<sup>20</sup> Baldwin, M.A., Split at the Root: Prostitution and Feminist Discourses of Law Reform, Yale Journal of Law and Feminism, No. 5, 1992, pp. 47-120.

<sup>21</sup> The Sex Sector, The Economic and Social Basis of Prostitution in Southeast Asia. Edited by Lin Lean Lim, Geneva: International Labour Office, 1998, p.10.

<sup>22</sup> *The Ageing and Development Report: Poverty, Independence and the World’s Older People*, HelpAge International, September 1999.

<sup>23</sup> Adapted from the U.K. charity, Action on Elder Abuse.

<sup>24</sup> Biggs, S., Phillipson, C. and Kingston, P., *Elder Abuse in Perspective*, Buckingham, Open University Press (1995).

<sup>25</sup> The Roeher Institute for the National Clearinghouse on Family Violence, *Violence and People with Disabilities: A Review of the Literature*, August 1994.

<sup>26</sup> Their lack of physical and social access to the courts, rules of evidence, courtroom procedures that unfairly impinge on the rights of persons with disabilities and the lack of willingness to make reasonable accommodation to individual difference (*Violence and People with Disabilities: A Review of the Literature*, The Roeher Institute, 1994; Sobsey D., *Violence and Abuse in the Lives of People with Disabilities: the End of Silent Acceptance*, Baltimore, Md, Paul H. Brookes Publishing Co, 1994).

<sup>27</sup> Chotiner and Lehr, 1976; National Center on Child Abuse and Neglect, 1982; Sandgrund and others, 1974.

<sup>28</sup> White, R., Benedict, M.I., Wulff, L., and Kelley, M., Physical Disabilities As Risk Factors for Child Maltreatment: A Selected Review, *American Journal of Orthopsychiatry*, 57, pp.93-101 (1987).

<sup>29</sup> General Discussion on the Convention on the Rights of the Child October 6, 1997, Children’s Rights Office, UK <http://www.crin.org> (article by Gerison Lansdown).

<sup>30</sup> Sobsey, D., *Violence and Abuse in the Lives of People with Disabilities*, Baltimore, Paul S. Brookes Publishing (1994).

<sup>31</sup> Schilling, Kirkham, and Schinke, “Do Child Protection Services Neglect Developmentally Disabled Children?”, *Education and Training of the Mentally Retarded*, 21, No. 1, pp.21-26, March 1986.

<sup>32</sup> Explicit references include: World Programme of Action concerning Disabled Persons adopted and proclaimed by General Assembly resolution 37/52 of 3 December 1982; the Tallinn Guidelines for Action on Human Resources Development in the Field of Disability adopted by General Assembly resolution 44/70 of 15 March 1990; and

the Standard Rules on the Equalization of Opportunities for Persons with Disabilities adopted and proclaimed by General Assembly resolution 48/96 of 20 December 1993; the Declaration of the Rights of Mentally-Retarded Persons proclaimed by General Assembly resolution 2856 (XXVI) of 20 December 1971; the Declaration on the Rights of Disabled Persons proclaimed by General Assembly resolution 3447 (XXX) of 9 December 1975; the Principles for the Protection of Persons with Mental Illness adopted by General Assembly resolution 46/119 of 17 December 1991. Indirect references to persons with disabilities can be found in: Article 25 of the Universal Declaration of Human Rights, adopted by General Assembly resolution 217A (III) of 10 December 1948; Convention on the Rights of the Child (Article 23);

African Charter of People's Rights (Article 18 [4]); and the draft Optional Protocol to the Convention on Human Rights in the area of Economic, Social and Cultural Rights, Report of the fourteenth and fifteenth sessions, Official Records 1997, Supplement No. 2, E/1997/22, annex IV at 91. Provisions protecting members of vulnerable population groups, which are included in basic human rights instruments, also are applicable to persons with disabilities. See also the General Comment on persons with disabilities, Committee on Economic, Social and Cultural Rights, No.5, 11<sup>th</sup> Session, 25 November 1994.

<sup>33</sup> Economic and Social Council resolution E/1997/20, "Children with Disabilities."