

HUMAN RIGHTS COUNCIL

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STATEMENT BY PROF. YAKIN ERTÜRK SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES

Mr. President, distinguished delegates, representatives of the United Nations and NGO community,

It is with great pleasure that I address the second session of the Human Rights Council. I look forward to cooperating with the Council and will do my best to provide objective and up-to-date information related to my mandate to help it fulfill its important tasks.

Thematic Report on Due Diligence

I would like to start by presenting some of the key findings from my main annual report examining the due diligence standard as a tool for the effective implementation of human rights, including women's right to a life free from violence.

It is now a firmly established principle of international law that states have a duty to take positive action to prevent and protect women from violence, to punish perpetrators and to assure compensation for victims. Failure to fulfill this duty constitutes a breach of international law.

In my report I draw attention to two major shortcomings in the current application of the due diligence standard.

First, the application of the due diligence standard has tended to be limited to responding to violence when it occurs, largely neglecting the obligation to proactively prevent violence. This includes the duty to address the root causes of violence, namely unequal power structures and gender-based discrimination in all its shapes and forms. A state, therefore, cannot be said to live up to the full range of its obligations related to violence against women as long as it allows discriminatory laws and practices to prevail.

In view of the complex and multifaceted nature of the phenomenon of violence against women, states, in their efforts to eliminate the problem, must employ alternative approaches to supplement the human rights discourse in their interventions at the individual and community level and in state apparatuses and the transnational arena.

One such alternative approach is the empowerment discourse as engrained in the Beijing Platform for Action. This approach embraces the progressive realization of the full range of rights - economic, social, cultural, civil and political. Fulfillment of these rights requires political will and an equitable and strategic allocation of limited resources.

Another effective approach is what I have called "cultural negotiation." This requires a state's active engagement in the promotion and support of a public dialogue aimed at transforming discriminatory values and norms. This is particularly important as experience in human rights work has shown that efforts will go astray without community compliance and cooperation.

The second major shortcoming of the current application of due diligence is that it is overly state-centric. Implementation of the due diligence standard, particularly in view of the increasingly globalized world order, must include relevant non-state actors as duty bearers in relation to the struggle to combat violence against women. Non-state entities with power and influence, including transnational corporations and international organizations, need to be held accountable when they fail to adhere to international standards. In some cases, new regimes for monitoring these responsibilities may have to be established.

This may require thinking beyond national boundaries and the development of transnational solutions to transnational challenges such as the trafficking of women or the regulation of migration and refugees to ensure that women who cross borders - either voluntarily or involuntarily - receive adequate legal protection. Eradicating violence against women and ensuring that human rights are universally enjoyed is a common culture and a shared obligation. In fulfilling their due diligence obligations to prevent, protect, prosecute and provide compensation with respect to violence against women, the community of states needs to work together and to employ innovative strategies.

Country Visit

Mr. President,

In the course 2006 I have conducted missions to Turkey, Sweden and the Netherlands. I am in the process of formulating my findings and recommendations and I look forward to reporting on these missions in 2007. At this time I would like to express my gratitude to the governments concerned for their full support in facilitating my work.

Today I would like to present an overview and update on the reports concerning my missions to the Russian Federation (E/CN.4/2006/61/Add.2), the Islamic Republic of Iran (E/CN.4/2006/61/Add.3), Mexico (E/CN.4/2006/61/Add.4) and the Islamic Republic of Afghanistan (E/CN.4/2006/61/Add.5). I would like to thank the governments of these countries for their cooperation with regard to my visits.

Russia

From 17 to 24 Dec. 2004 I visited the Russian Federation including the North Caucasus. The adverse impact of the process of political and economic transition has disproportionately burdened women. This is further aggravated by the upsurge of ancient notions about gender relations which serve to “justify” the widespread violence encountered by women in the country. The Russian Federation has a historical legacy in the promotion of women’s rights and a well-developed state tradition which, if the government were to prioritize the issue, could enable it to effectively address violence against women and to recognize and resolve major challenges. Unfortunately, this is still not the case. I will reflect on a few issues here:

To date the Russian Federation lacks domestic violence legislation. Therefore, the majority of domestic violence cases involving non-aggravated assault will not receive due attention from the authorities. Gender biases prevail in law enforcement and the judiciary and there are insufficient protective mechanisms for victims of violence, such as shelters, counselling etc. The fact that there is no specialized national machinery for women’s rights creates a vacuum in effectively addressing these issues. It is encouraging to learn that the Russian Federation

has recently [5/6/2006] created an Inter-Ministerial Commission on the Promotion of Equality of Men and Women. I hope that this new institution will be given the mandate and resources to realign the Russian Federation's priorities with its human rights obligations related to women.

Violence against women in the Chechen Republic is a major concern where women face severe forms of violence. In the private sphere strong patriarchal norms as well as the continuing tensions and insecurities in the Republic reinforce and sustain stringent forms of control over women. I have also been receiving an increasing number of reports of acts of violence and intimidation committed by Chechen authorities against women accused of not conducting themselves in accordance with societal and religious norms. In a recent incident a young Chechen woman accused of being unfaithful with a Russian man was detained by the authorities, tortured and ridiculed in public. As a result of the severe abuse she suffered a miscarriage.

According to reports, women are also targeted by state agents during security operations as well as armed confrontations, both as relatives of men suspected of belonging to armed groups and as targets themselves. During the course of my mission I heard testimonies from relatives of women who had disappeared and from those who had been victims of extrajudicial execution, torture, rape and ill-treatment, allegedly by members of the security forces. For the record I note that the Russian authorities maintained that targeted operations are not state policy. This, however, does not relieve the State of its obligation to protect its citizens with due diligence.

Iran

From 29 Jan. to 6 Feb. 2005 I visited the Islamic Republic of Iran. Although the principle of equality is enshrined in the Constitution of Iran, gender inequality is a salient feature of Iranian society. It is upheld and perpetuated by patriarchal values and attitudes, and state-promoted institutional structures based on gender-biased and hardline interpretations of religious principles. While the former is a universal phenomenon, the latter is particular to contemporary Iran and is rooted in the country's prevailing dominant political discourse.

Women's access to education in Iran is commendable, and to some extent women also have access to employment and political participation. However, discriminatory provisions in both the civil and penal codes, combined with the flawed administration of justice, disempower women and aggravate their susceptibility to violence in the public and private spheres. Certain recent amendments to the law concerning child custody and the minimum age of marriage are promising steps towards the reinterpretation of fundamental principles in line with the current needs and societal contributions of women.

Women's access to justice in Iran requires urgent and transparent legal and judicial reform, including the legal prohibition of corporal punishments such as stoning and flogging. In this regard, I would like to refer to the case of Ms. Ashraf Kolhari, who has been sentenced to death by stoning for having committed adultery. According to the latest information I received, the execution of the sentence has been temporarily stayed by the head of the judiciary. I would like to express my sincere hope that Iran will uphold its moratorium on execution by stoning until the practice is completely outlawed.

During my visit to Iran I also had the chance to meet with Ms. Shirin Ebadi, who won the Nobel Peace Prize for her efforts to defend the human rights of women and others in Iran. I am troubled to hear that on 3 Aug. 2006 the Iranian Ministry of Interior declared illegal the Defenders of Human Rights Centre, which was co-founded by Ms. Ebadi, and reportedly threatened to prosecute anyone who continued with the Centre's activities.

Mexico

From 21-25 Feb. 2005, I visited Mexico. The high levels of violence against women in Mexico, which have attracted much international attention, are both a consequence and a symptom of widespread gender discrimination and inequality. Additional layers of discrimination on the basis of national origin, ethnicity or socio-economic status compound the issue for vulnerable groups of women - namely those who are migrants, poor and/or indigenous.

The Government of Mexico has adopted a range of international standards and is party to the major human rights treaties that provide women with protection against violence and has taken important steps to fulfill these obligations. However, it needs to take drastic measures to address the inadequate coordination between federal and state levels with regard to violence against women and make the police and justice sector more responsive. Some states are lagging far behind in their human rights responsibilities to protect women with due diligence.

The problem has been particularly acute in the State of Chihuahua. Between 1993 and 2005 almost 400 women were murdered in Ciudad Juarez alone. Many of the perpetrators still enjoy impunity and – what is even worse – the murders continue. While both the state and the federal government have taken some commendable measures to solve past cases and prevent additional murders, many recommendations from international and national monitoring mechanisms have yet to be implemented.

I am also concerned that Ciudad Juarez might not be an isolated case. Reports indicate that there may be similar or even higher-risk areas for women in other parts of Mexico. One such area is along the southern border with Guatemala, where I was told that some 1,000 women were killed over a three year period.

Afghanistan

From 9-19 July 2005 I visited the Islamic Republic of Afghanistan. Significant changes to the legal and institutional framework have occurred over the past four years, including the creation of the Constitution enshrining the principle of equal rights for men and women, the obligation for observance of international human rights norms and the reservation of a quota in the legislature for women. The Republic has ratified CEDAW without reservations and has created a Ministry of Women's Affairs.

Yet the situation for women in Afghanistan remains dramatic, and severe violence against them is all-pervasive. Murder in the name of honour, tradition and religion, forced and early marriages and domestic violence continue to sustain an environment of fear and insecurity for women. According to reports, some 185 women and girls have been killed by family members so far this year.

Factors that underlie the perpetuation of violence against women include the hardened patriarchal gender order, the erosion of protective social mechanisms, a weak judiciary, a lack of law enforcement and widespread discriminatory practices combined with the prevailing poverty and insecurity in the country. A general sense of lawlessness and rule of power, exercised with impunity, continues to dominate everyday life.

Today Afghan society faces the challenge of multiple transitions, and enhancing women's status is not independent of the requisite transitions. These include: the transition from conflict to peace; from a fragmented war economy to sustained growth economy; from factional struggle to national reconciliation; and from rule of power to rule of law. These are challenging tasks and it will take time to actualize them. Meanwhile, women and girls must be protected from violence as a matter of urgency. In this regard, I would like to emphasize two urgent areas that need to be prioritized. The first is ending child and forced marriages and the second is the need to provide safe houses for women and girls who have escaped from violence and have no other alternatives. Safe houses are, no doubt, not a solution to the problem; however, the alternative may be abandoning women to a state of despair with fatal consequences.

Pending and Requested Missions

I had scheduled a mission to Algeria, which was to take place in January 2006. Unfortunately, it was postponed on short notice at the request of the Government. However, I would like to note that I have received verbal assurances from the government that the mission can take place in early 2007.

In addition, I have renewed my request to visit to the Democratic Republic of Congo and have also requested to carry out official missions to Ghana and Saudi Arabia in 2007. Finally, I have taken up an invitation from the Government of Zimbabwe which has, upon its own initiative, invited me to carry out an official mission.

Situation in Darfur

I would like to provide relevant follow-up information on my visit to the Darfur region in Sudan, on which I reported to the Commission in 2005. At the time, I concluded that the situation in Darfur constituted a grave human crisis exacerbated by insecurity, mutual mistrust between the people and the Government and the lack of effective follow-up regarding allegations of human rights violations, including rape of women and girls.

According to reports from numerous credible sources, the situation has regrettably not improved. The signing of the Darfur Peace Agreement has not resulted in a decline in the incidence of rape or other acts of violence against women. Throughout Darfur a surge in sexual violence continues as militia and rebel factions target women who are perceived to support opposing factions and those in the IDP camps.

Mr. President,

I would like to conclude my statement with reference to the important and bold step taken by the Commission on Human Rights in creating the mandate of the special rapporteur on violence against women, its causes and consequences in 1994. Ms. Coomaraswamy, who sits next to me today, was the first to be appointed to the post. This mandate of the Commission

on Human Rights has been invaluable in the struggle to combat violence against women and a hope for women around the world. I trust that the Council will build on the Commission's achievements and extend and fully support this mandate.

I look forward, Mr. President, to a constructive dialogue with the distinguished members of this Council.

Thank you.