



## 经济及社会理事会

Distr.  
GENERAL

E/CN.4/2006/61/Add.2  
26 January 2006  
CHINESE  
Original: ENGLISH

人权委员会  
第六十二届会议  
临时议程项目 12 (a)

### 纳入妇女人权和性别公平观：暴力侵害妇女

暴力侵害妇女、其原因及后果问题  
特别报告员亚肯·埃蒂尔克的报告

增 编\*

对俄罗斯联邦的访问

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\* 本报告的内容提要以所有正式语文分发。报告本身载于内容提要附件,仅以原文和俄文分发。

## 内 容 提 要

本报告载有暴力侵害妇女、其原因及后果问题特别报告员 2004 年 12 月 17 日至 24 日访问俄罗斯联邦之后得出的结论。报告说明了因北高加索地区普遍存在的不安全状况引起的暴力现象和整个联邦的家庭暴力问题，查明了为保护和增进妇女权利、消除暴力侵害妇女现象所需采取的关键措施和行动。

苏联时代的遗留问题和目前向市场经济的转型是造就俄罗斯联邦境内侵犯妇女人权目前的形态的两个重要因素。虽然 1993 年的《宪法》确保男女权利平等，而且俄罗斯也加入了许多人权文书，包括《消除对妇女一切形式歧视公约》及其附加议定书，但妇女所承受的转型进程的负面影响却不成比例。由于父权价值观念抬头，经济转型造成了妇女地位普遍降低，在公共和私生活领域遭到多种形式的暴力行为的危险增加。北高加索地区的妇女还背负着该地区多方面的困苦的额外负担。

妨碍妇女在俄罗斯联邦伸张正义的因素有：缺乏有关暴力问题的国内立法，尤其是在执法和司法方面存在性别偏见，难以取得有补贴的住房，实行户口登记办法，为暴力行为受害者提供的庇护场所不足，还有北高加索地区的特殊情况。

由于缺乏一个处于国家结构内的战略地位、并拥有必要的权力和资源的提高妇女地位的全国性机制，而且也由于缺乏一个强有力的公民社会来充当压力集团和游说力量，因此，有关两性平等的公共讨论和政策受到阻碍。

俄罗斯联邦境内的暴力侵害妇女现象给政府履行人权义务的工作和持续安全造成了一项重大挑战。政府拥有完备的国家机制，也承担着各种人权承诺，只要把这一问题放在优先地位，便完全有能力调动整个社会制止暴力现象。

特别报告员在建议中呼吁政府采取行动，打击家庭暴力和北高加索地区的暴力侵害妇女现象，并采取全面措施，增强妇女的能力，改善妇女伸张正义的机会。

**Annex**

**REPORT OF THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST  
WOMEN, ITS CAUSES AND CONSEQUENCES, YAKIN ERTÜRK,  
ON HER MISSION TO THE RUSSIAN FEDERATION**

**(17-24 December 2004)**

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## **Introduction**

1. At the invitation of the Government, the Special Rapporteur visited the Russian Federation from 17 to 24 December 2004. Due to time constraints and reports on human rights violations in the Chechen Republic, the mission was geographically restricted to the North Caucasus and to Moscow, with a focus on violence related to the prevailing insecurity in the former and domestic violence in Russia at large. While both forms of violence are interrelated since they are engrained in and incited by gender inequality and discrimination, their manifestations and the nature of the government response warrants treating the two issues separately for the purposes of this report.

2. During her visit, the Special Rapporteur met with representatives of the Federal Government, civil society and the United Nations Development Programme/United Nations Development Fund for Women in Moscow. She also travelled to the North Caucasus and met with authorities of the Republics of Ingushetia and Chechnya, as well as with civil society organizations in Nazran and Grozny and representatives of the United Nations High Commissioner for Refugees. In Moscow she heard testimonies from victims of domestic violence, and in the North Caucasus from victims of human rights violations, relatives of disappeared persons, as well as internally displaced persons (IDPs) and returnees living in a temporary accommodation centre near Grozny. She also visited female detainees at a pretrial detention centre in Grozny.

3. The Special Rapporteur wishes to thank the Federal and local authorities for facilitating her visit, and extends her gratitude to the human rights organizations and individuals who provided valuable information. She also expresses sincere appreciation to the victims of violence and members of their families who courageously shared their experiences with her. Finally, she would like to thank the United Nations Resident Coordinator for his support to the visit. Particular thanks are due to UNHCR staff in Geneva for their extensive briefing prior to the mission and to their field staff in Ingushetia for facilitating her work in the North Caucasus.

### **I. EMERGENCE OF THE RUSSIAN FEDERATION**

4. The Russian Federation was established following the disintegration of the Soviet Union, which as one of the super-Powers of the twentieth century offered an alternative world order to the prevailing market-driven model not only for its people but also inspiring millions more in the emerging nations around the world. The Soviet model was a response to widespread socio-economic inequalities and aimed to transform such hierarchies through a centrally planned economy. Within this context, analysts have often described the history of its human rights orientation as being paradoxical. These complex historical patterns and the recent trends of the transition to a market economy are said to shape the contours of Russia's current domestic and foreign policy.<sup>1</sup>

5. Two aspects of the Soviet legacy based on the socialist mode of production are particularly relevant to the understanding of the process of transition, as well as to the specific issues addressed in this report, the perception of women as an integral component of the class

formations, and the perception of the Soviet Union, built on distinct ethnic groups, as comprising a unified entity. The ultimate goal was to reach a classless society where all inequalities based on sex, ethnicity and class would wither away. However, developments have shown that these aspirations had not materialized. Aside from the overall socio-economic disparities troubling Russian society today, the situation of women and the question of territorial integrity contested by ethnic divisions, particularly in the North Caucasus, are areas where difficulties have been most pronounced. Both pose a challenge for Russia in terms of its international human rights obligations and its prospects for the future.

6. This report begins with a brief overview of the status of women, the situation in the North Caucasus and Russia's human rights commitments, and continues with the findings of the Special Rapporteur regarding violence against women.

#### **A. The status of women**

7. The process of political and economic transition in Russia, which entailed the transformation from a command economy to a market economy as well as restructuring of the State apparatus has had contradictory effects on women. Under communism, minimum levels of social welfare and the enjoyment of certain economic, social and cultural rights were guaranteed to the population at large, much of which disappeared under market liberalization. Despite recent improvements, high unemployment rates, wage cuts and wage arrears, and limited access to health care and education continue to be persisting problems. Violations of women's human rights in particular are largely related to this process of transition as women carry a disproportionate share of the burden of the transition, including as concerns poverty, domestic violence, sexual assault and trafficking.

8. The Soviet Union was well known for its universal gender equality policy and the priority placed on the measures needed to realize it. Today, women still have many formal rights; however, real opportunities for women have considerably decreased with the transition to a market economy, which is accompanied by the reassertion of patriarchal values. The official Soviet policy that emphasized the importance of women contributing to society by performing paid work outside the home on equal terms with men appears to have been replaced by the outlook that a woman's primary task is to care for the family and children.<sup>2</sup>

9. Women's political participation has also decreased, resulting in underrepresentation in decision-making positions. While in 1993, women held 14 per cent of the seats in the State Duma, the lower house of Parliament, two years later this dropped to 11 per cent.<sup>3</sup> In the parliamentary elections in 2000 women won only 7.7 per cent of the seats in the Duma and 0.6 per cent of seats in the upper house, the Federation Council. Women are also grossly underrepresented in public sector decision-making positions. Although 55 per cent of civil servants are women, they hold only 1.3 per cent of decision-making posts. Their position is considerably better in the private sector, where mainly in small enterprises, women occupy 35 per cent of managerial positions.<sup>4</sup>

10. As concerns the labour market, according to a UNHCR report of 2003, 68 per cent of the registered unemployed were women. Women, more than men tend to be laid off when employers reduce the workforce.<sup>5</sup> Although they tend to be more educated, women also

generally earn less than men - with reports indicating that women's average salaries can be as much as 70 per cent below men's average salaries for work of equal value.<sup>6</sup> The gender wage gap has been attributed partially to the fact that women are concentrated in low-paid sectors of the economy. It is reported that women make up 80 per cent of those working in health-care, education, social security and culture-related sectors, in which salaries are 40 to 60 per cent lower than average salaries in the rest of the economy. As salaries are increasing faster in the male-dominated sectors of the economy, such as industry, finance and banking, the wage gap is also widening.<sup>7</sup> The Government has also reportedly excluded the employment of women in 450 positions, presumed to be too hazardous. Critics have argued that this discrimination aims to exclude women from prestigious, better paid jobs.<sup>8</sup>

11. The three years of parental leave, taken nearly exclusively by women, is another factor constraining the employment of women. Since an employer must retain the workplace of the absent employee and continue to pay social benefits, they reportedly prefer hiring men. Women may be required to sign an agreement stating that they will not get pregnant and that if they do, they may be forced to resign.

12. All these factors disempower women and make them increasingly dependent on fathers or husbands. Apart from the obvious discriminatory implications, these practices also have an adverse impact on women's overall status in the society, thus increasing the risk of human rights violations, including violence in the private and public spheres.

### **B. Political and ethnic boundaries and Chechnya**

13. After the dissolution of the Soviet Union, nationalist sentiments emerged among various ethnic groups within the Russian territory. A federal system was established under the 1993 Constitution with much power concentrated in the central Government. However, bilateral or power-sharing agreements between the central Government and the regional jurisdictions have been signed to supplement the understanding of division of power. For some observers, this proliferation of bilateral agreements signalled the demise of Russia, as some regional jurisdictions, particularly the Republics, demanded significant power.<sup>9</sup>

14. While several regional jurisdictions have made demands for greater autonomy, Chechnya is the only Republic within the territory of the Federation that has demanded complete independence, resulting in two wars. Chechnya declared its independence in 1991 and then became a war zone in 1994 when the Russian army entered to restore territorial integrity. In 1996, the Khasavyurt Agreement was signed, which brought an end to military operations. However, in the period that followed, Chechnya was characterized by lawlessness and an inability of the leaders of the Chechen Republic to establish control over the territory. In 1999, forces from Chechnya invaded parts of the neighbouring Republic of Dagestan, which prompted the second Chechen war. Since then, the ongoing hostilities in Chechnya have been defined by the Federal Government as an operation within the context of combating terrorism, particularly since 11 September 2001 and the subsequent "war on terrorism".<sup>10</sup>

15. The Federal Government has claimed that the situation in Chechnya has "normalized".<sup>11</sup> However, others have pointed out that violations of human rights continue to be perpetrated by security forces as well as Chechen fighters, both within Chechnya and the region in general,<sup>12</sup>

thus significantly radicalizing Russian society and deepening mutual prejudice and mistrust between Chechens and Russians. The Council of Europe has drawn attention to the insufficiency of investigations concerning crimes allegedly committed by members of the military and others with official status against civilians.<sup>13</sup> The ongoing military operations in the region and lack of security indicate that the conflict has not truly ended.

16. As elaborated later in this report, women in the North Caucasus not only encounter multiple forms of violence as direct targets of the military operations, they also bear the consolidated hardships associated with the overall destruction caused by the fighting, the contradictory consequences of transition in general as well as the heightened patriarchal control exacerbated by the general situation.

17. Despite some efforts by the Federal Government to rebuild the infrastructure in the war-torn areas, particularly in Chechnya, the socio-economic situation for most of the people in the region remains precarious. Education, health, employment and housing have become rare commodities for the majority of the population.<sup>14</sup> The situation in Chechnya as well as in neighbouring Ingushetia is far from being normal, as everyday life continues in a state of despair and disarray.

18. The situation in Chechnya is complex and multifaceted. While a full analysis of this situation is not the objective of this report, it is important to emphasize that the impact of the conflict and the current military operations is not limited to the region where the bulk of the problems are taking place, but span across Russia, affecting stability and overall development and respect for human rights, including the prospects for prioritizing an effective Government response to violence against women.

### **C. Human rights commitments**

19. The 1993 Constitution of the Russian Federation provides for primacy of international law over domestic law. The Constitution guarantees many rights, including the right to life, the right to be free from torture, freedom of thought and expression, the right to health, the right to education and the right to housing. In particular, article 19 states that “all people shall be equal before the law and in the court of law” and that “man and woman shall have equal rights and liberties and equal opportunities for their pursuit”. The Federal Assembly in 1996 adopted two concept papers aiming to ensure equality for women: “Improvement of Women’s Status” and “Activities for Assurance of Equal Rights and Opportunities for Men and Women”.

20. The Federal Human Rights Commissioner, an independent mechanism with the power to receive individual complaints about human rights violations, was established in 1997. However, the commissioner’s mandate does not have focus on women’s rights per se. Much of the work undertaken in 2004 related to police brutality and abuses by prosecutors and the courts. The commissioner’s recommendations are not binding on the Government and reportedly, his efforts to investigate some human rights abuses have been frustrated by his lack of access to classified information.

21. With respect to regional human rights instruments, Russia has ratified the European Convention on Human Rights and its Protocols Nos. 1, 4 and 7, and the right of citizens to take their case to the European Court of Human Rights is constitutionally guaranteed. Russia is also party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

22. At the international level, Russia has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol, the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child. Russia has recognized the competence of the Committee against Torture and the Committee on the Elimination of Racial Discrimination to hear individual complaints. Russia has also ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

## **II. DOMESTIC VIOLENCE IN RUSSIA**

23. Many observers in Russia attribute violence against women to the socio-economic consequences of transition, such as the loss of status experienced by women, increased levels of unemployment, alcohol and drug abuse among men, as well as sexual exploitation. These realities have no doubt intensified the risks of violence for women; however, the loss of status women have experienced is in itself an indication of deep-rooted patriarchal values. Although under Soviet rule some forms of violence against women were criminalized, particularly in the public sphere, others that may have the potential to challenge gender inequalities, such as marital rape and some types of domestic violence, were ignored.

24. While violations of women's rights occur mainly in the home, women are reportedly exposed to multiple forms of violence in society at large, including trafficking, rape, sexual harassment, violence within the context of the military operations in the North Caucasus, violence against women in prison and violence against women belonging to other distinct groups.<sup>15</sup>

25. The next section of the report focuses on the parameters of domestic violence and identifies the existing obstacles to and opportunities for its elimination.

### **A. Scope and magnitude of the problem**

26. Although statistics on domestic violence in particular and violence against women in general are inconsistent, existing data reveals a worrisome increase in domestic violence since the collapse of the Soviet Union. Reportedly, 80 per cent of violent crimes against women are cases of domestic violence.<sup>16</sup> Between 1994 and 2000, the number of reported cases increased by 217 per cent to 169,000.<sup>17</sup> Over a 10-month period in 2004, the Ministry of Interior reported 101,000 crimes related to the family - a 16 per cent increase over the previous year. The State party's report to the Committee on the Elimination of Discrimination against Women (CEDAW)



in 1999 acknowledged that 14,000 women were killed annually by their husbands or other family members. The report went on to state that the “situation is exacerbated by the lack of statistics and indeed by the attitude of the agencies of law and order to this problem, for they view such violence not as a crime but as ‘a private matter’ between the spouses” (CEDAW/C/USR/5, para. 6).

27. As mentioned above, while the problems accompanying transition may partially explain the increased risk of domestic violence, the main cause is rooted in patriarchal norms and values. In many meetings held by the Special Rapporteur, authorities referred to an ancient Russian proverb, “a beating man is a loving man!” Due to strong patriarchal values, husbands in Russia are generally considered superior to their wives with the right to assert control over them, legitimizing the general opinion that domestic violence is a private issue. Women are often blamed for having provoked the violence. Female deputies in the State Duma told the Special Rapporteur that violence against women is not sufficiently understood in Russian society. As a result, although marital rape is criminalized, it is not acknowledged.

28. It is also likely that domestic violence may be gaining visibility due to the withering away of the hegemonic ideology of the previous regime and the greater susceptibility of the new socio-political environment to international dialogue, creating a potentially more conducive environment for the public denunciation of such problems. Nevertheless, women’s groups claim that domestic violence remains seriously underreported, underrecorded and largely ignored by the authorities. Furthermore, social stigma is connected to sexual and domestic violence, pressuring victims to keep silent and “solve it” within the family. This stigma results in weak public pressure for State action, which may explain why the problem is low on the State agenda.

29. The following statement of a domestic violence victim exemplifies the scope of the problem:

“Serguei entered my room, pulled me out of the bed and dragged me into the kitchen. There he bent my arms, pushed me to the floor and started beating my head against the floor. He said that he is the ‘czar and ruler’ and that I must do whatever he tells me to do. He forced me to repeat his words, and continued to bend my arms until I replied. I asked him: Do you want to kill me? He answered: I will bring you to such a state that you will kill yourself. You need to be beaten and beaten. You are just a piece of meat and if I kill you, I won’t be punished.”<sup>18</sup>

30. After years of abuse and degrading treatment, some women have resorted to violence themselves. During her visit, the Special Rapporteur heard about a woman victim of domestic violence who killed her husband after learning that he had raped her daughter. The woman was charged with premeditated murder and sentenced to 15 years’ imprisonment. The court reportedly did not consider the years of domestic violence nor the rape of her daughter as mitigating factors. This reveals yet another dimension of the consequences of domestic violence that may not be sufficiently addressed by the authorities. During a meeting with representatives of the Ministry of Justice, the numbers of murders committed by women were presented to support the argument that “women can also be violent!”

## **B. Opportunities and obstacles to combating violence**

### **Housing and residence permits**

31. Women attempting to escape violent situations are frequently unable to access independent housing. In many cases, women are compelled to share the same residence with a violent partner, even after an official divorce. In the past decade, access to housing has worsened with the privatization of the housing market.

32. Due to the severe shortage of subsidized housing, renting a new, State-owned apartment is virtually impossible. If a couple is renting a State-owned apartment, it is very difficult to evict the violent partner from the common domicile. According to article 68 of the Housing Code,<sup>19</sup> a change in living arrangements requires the agreement of all persons registered at the domicile or a decision from the court. The revised Housing Code, in effect since March 2005, contains no procedures for evicting persons who are unable to live together. The new Housing Code also offers two new definitions: owner of premises, and user of living space. According to the Code, after a divorce, the user of the living space can be evicted by court order. The Special Rapporteur however was informed that the Housing Code's new provisions were disadvantageous to women, especially those trying to escape domestic violence.

33. In private housing, the owner cannot be forced to sell his/her property or be evicted. If both partners jointly own or rent the apartment with a joint lease, eviction of one of them requires a court order. If one partner owns or rents the apartment, he or she has the right to evict the other. As the owner or legal lessee is usually the man, it is more common for the woman to be evicted. Even if the woman is the owner, it may be difficult to evict a batterer due to police inaction. The following excerpt from a testimony received by the Special Rapporteur illustrates this problem.

34. Tina, a mother of two and grandmother of one child, suffered 18 years in an abusive marriage. Her ex-husband is a police officer, therefore, her complaints to the local police station brought no action. Finally, in 2001, the prosecutor took up the case leading to the sentencing of her husband to two years' imprisonment. He was, however, released immediately without serving any time in prison. They divorced afterwards, but circumstances forced them to continue living in the same State-owned flat. She said it felt like two wild animals in the same cage. She requested to be assigned a separate State flat, but was refused. On 9 August 2004, her ex-husband arrived home drunk, broke the door of her room and beat her and the 4-year-old grandchild. On 17 August 2004, she asked for the file to be transferred to another police station as she believed that the local police were protecting her ex-husband. In September, the prosecutor's office responded that there was no reason to transfer the file. Tina continues to live in this life-threatening situation.

35. Difficulties in accessing housing, thereby compelling women to remain in abusive environments even after divorce, are further complicated by the practice of residence registration, a remnant of the old *propiska* system. *Propiska* was a permit issued by the authorities to restrict all residents to one legal place of residence. Under the Soviet system, a

valid *propiska* was required to change residence, get married, get a job, access services or travel. Although the Russian Constitutional Court has abolished *propiska* several times since 1991, *propiska*-like practices reportedly continue in many places, restricting freedom of movement. The authorities the Special Rapporteur addressed on this subject asserted that these claims were invalid, emphasizing that *propiska* is no longer practised. However, victims repeatedly mentioned *propiska* as a major obstacle to escaping domestic violence. They said that a woman who voluntarily leaves the home and a violent partner risks being refused a new residence permit, thereby losing her legal status along with all of the accompanying entitlements. In addition to this risk, both the cost and the complicated bureaucratic procedures deter many women from trying to leave a violent relationship. The lack of legal and institutional protection from domestic violence, as discussed below, leaves women with no way to escape violent situations.

### **Legal and judicial framework**

36. The lack of a specific law on domestic violence in Russia is a major obstacle to combating this violence. While the State Duma has considered as many as 50 draft versions of a law on domestic violence, none has been adopted. The Ministry for Foreign Affairs attributes this to the financial implications of the draft bills. Members of the Committee on Women, Children and Family of the State Duma, however, indicated that violence against women is not a priority for the State and that most opponents of the bill claim it would duplicate existing legal provisions. They argue that perpetrators of domestic violence can be prosecuted under articles 111 to 115 of the Russian Criminal Code, which criminalize inflicting intentional harm on another person. Other relevant provisions cited include article 116 prohibiting beating another person, article 119 addressing death threats or threats of serious physical harm, and article 117 addressing torture. However, according to women's groups, these provisions are often interpreted too narrowly to apply to domestic violence cases, making it difficult to punish perpetrators.

37. CEDAW and the Committee on Economic, Social and Cultural Rights, in their concluding observations on Russia, have both expressed concern about the high rates of domestic violence and the lack of legislative protection.<sup>20</sup> The Special Rapporteur is concerned that despite clear recommendations from both Committees, legislation on domestic violence has not yet been adopted. The women's organizations and individuals she met agreed that specific legislation was needed, providing both criminal and civil remedies and taking account of the relationship between the perpetrator and the victim; making marginal amendments to existing laws was insufficient.

38. The lack of specific legislation contributes to impunity for crimes committed in the private sphere. It deters women from seeking recourse and reinforces police unwillingness, or even refusal, to deal seriously with the problem, as they do not consider it a crime. Reportedly, police officers, when called on may refuse to come to the scene, even in critical situations. When they do come, they may not register the complaint or arrest the perpetrator, but instead pressure the couple to reconcile their differences. In the process, the case goes unrecorded and the victim may not receive necessary medical treatment for her injuries.

39. Where women are assertive in trying to file a complaint, the officers allegedly delay the filing process or make it difficult. Police also reportedly blame victims and treat them in a discriminatory and degrading manner. Some women also report further abuse at police stations when filing a complaint. Under such circumstances, investigation into complaints seems unlikely. The victims of domestic violence the Special Rapporteur met all reported the police's reluctance to respond to their case.

40. In other circumstances, the police may offer to take the perpetrator to the station and beat him instead of initiating a criminal charge.<sup>21</sup> If the police do arrest the perpetrator, they normally keep him in detention for less than a day or slightly longer in "serious cases", then release him without charge. When he returns home, he may commit even worse acts of violence in revenge. With no system of restraining or civil protection orders, local officials lack a legal mechanism to protect the victim from further violence once the perpetrator has been released.

41. Owing to police inaction, many victims of domestic violence do not file complaints - 40 per cent of women victims of domestic violence never seek help from law enforcement agencies.<sup>22</sup> In cases that are filed, victims reportedly often withdraw their complaint due to lack of confidence in the justice system, economic dependency on or threats from the perpetrator, fear of losing custody of their children or the social stigma connected with domestic violence. Thus, very few complaints ever reach the courts or result in prosecution.

42. The result is that a man who beats, threatens or even kills his wife is likely to enjoy impunity. When a perpetrator is convicted, he is sentenced to a disproportionately lenient punishment. The relevant articles in the Criminal Code typically entail a fine, a period of community service or, at most, a few months in prison. The jail sentences are often conditional, resulting in the man often being released without serving his sentence. In this regard, the following testimony, received by the Special Rapporteur during her visit, is telling.

43. Elena, a 38-year-old teacher with a 14-year-old son from her first marriage, was divorced in May 2004 after eight years of marriage. Her ex-husband had become violent towards her and her son during the last year of their marriage. With the support of women's organizations, Elena's case was taken up as a criminal case under article 119. Her husband was sentenced to one year's "conditional" imprisonment and released with the understanding that a more severe punishment would be inflicted if the crime was repeated. Elena and her ex-husband continued to share the same flat. On one occasion, he got drunk and beat her with the leg of a chair and tore off her clothes. She managed to escape from the flat and got a medical report from a clinic. Elena was able to file another criminal complaint and her ex-husband has now been charged with attempted murder.

### **Institutional and policy framework**

44. Several institutional mechanisms have been established in Russia to address women's human rights, such as the Committee on Women, Family and Youth of the State Duma; the Commission on the Status of Women; the Social Commission of the Federal Council for Ensuring Equal Rights and Equal Opportunities for Men and Women; and the Department on Medical and Social Problems of Family, Maternity and Children of the Ministry of Health and Social Development.

45. The Commission on the Status of Women, with representatives from all ministries, was created under the Vice-President's office in 1996 as the main national machinery to coordinate gender equality policies and practices within the public sector. Parallel structures were established in 89 localities throughout the Federation. In accordance with a law adopted on 9 March 2004, the national machinery was reorganized<sup>23</sup> and subsequently dissolved by a resolution.<sup>24</sup>

46. The Department on Medical and Social Problems of Family, Maternity and Children within the Ministry of Health and Social Development has been created and mandated to coordinate gender issues, among other functions. However, the authority of the department and the overall status of gender issues in the new structure remain unclear. Female Duma representatives, the Chairperson of the Presidential Human Rights Council and women's groups are concerned that there is now an institutional vacuum within the State structure. The fact that there is no specialized body, with clout, authority and resources, to address women's rights and equality issues will seriously jeopardize the coordination and monitoring of the implementation of the Convention and the Beijing Platform for Action and the identification of areas where gender equality policies are needed in view of new needs and developments. Furthermore, placing the mandate on gender equality within the responsibility of one ministry will severely narrow its scope, capacity and potential impact. The unitary category of women, children and family reinforces the conventional perception of women as mothers rather than as autonomous individuals, and obscures specific human rights guarantees for women. On the other hand, dropping the word "women" from the title altogether totally conceals women's issues. Thus, the existing modality falls short of international standards, including the strategic objectives contained in section H (Institutional Mechanisms for the Advancement of Women) of the Beijing Platform for Action, adopted by the Fourth World Conference on Women held in Beijing in September 1995.

47. While there is no specialized national machinery for women's rights and the existing institutional framework is weak, other measures have been taken by the Government to improve the situation for women. For example, in the context of Russia's efforts to realize the Millennium Development Goals, the Government has elaborated a gender strategy with a section specifically devoted to violence against women. Preventive actions proposed in this strategy call for campaigns to increase public awareness on the issue and to conduct specialized and educational programmes for law enforcement employees at all levels, and for professionals in sectors providing assistance to women in crisis situations.<sup>25</sup>

48. Although public awareness campaigns are a positive initiative, women's organizations and academics feel that the problem is not lack of awareness but rather gender-insensitive State policy, sex stereotyping, perpetuation of outdated notions of masculinity and femininity, and the lack of legislation, national machinery for women and shelters for victims of violence. The Chairperson of the Presidential Human Rights Council particularly emphasized the importance of shelters in combating violence against women. Currently there are only 5 shelters throughout the Federation and 120 crisis centres. In recent years, there has been an increase in the number of crisis centres and telephone hotlines funded by local authorities and managed by non-governmental organizations, offering psychological, legal, medical and other services for

women and girls who have experienced violence. In 1999, a number of these centres formed the Association of Crisis Centres of Russia. Nevertheless, the existing shelters and other services are insufficient to address the needs of the majority of victims of violence.

49. Women's rights organizations also cooperate with State institutions, for example by supporting the Prosecutor-General on individual cases of violence against women and providing special training for law enforcement agencies. Some organizations also train media representatives to drop negative sex stereotypes and attitudes to domestic violence and encourage gender-sensitive coverage of incidents of violence.

50. However, women's organizations face many constraints in their efforts to promote and protect women's rights. The Chairperson of the Presidential Human Rights Council, which is also responsible for the development of civil society, explained that there is limited State protection for civil society organizations, making them extremely vulnerable to pressures and restrictions imposed particularly by local authorities. Furthermore, NGO survival is difficult in the absence of provisions for tax exemption for non-profit activities. This situation places constraints on the development of women's NGOs and other civil society entities, and limits their activities and effectiveness. Consequently, women are unable to exert pressure for change, extend sufficient support for victims of human rights violations, including domestic violence, and undertake comprehensive research on gender issues, among other issues.

### **III. VIOLENCE AGAINST WOMEN IN THE NORTH CAUCASUS**

51. This section of the report focuses on the impact of the military operations and prevailing insecurity in the North Caucasus on women's lives, directly as well as indirectly, and examines the ways in which the State is responding to the problem.

#### **A. Multiple forms of violence against women**

##### **Violence in the private sphere**

52. Women in the North Caucasus, like women elsewhere, are subjected to violence in the private sphere. The strong traditional patriarchal norms of family honour as well as the state of affairs in the region reinforce violence and perpetuate the silence surrounding it. Reportedly, women can be ostracized by their community if they report domestic violence. With the breakdown of law and order, severe lack of confidence in the authorities and pressure on women from marginalized groups to maintain group cohesion, taboo and silence have become the rule. Internally displaced women in particular face acute pressure to submit to abusive relationships. A study undertaken in 1998 by the World Health Organization found that gender-based violence tended to escalate among Chechen refugees. International observers have also reported forced marriages, polygamy and blood feuds as factors that increase the vulnerability women in this region. Ingush parliamentarians told the Special Rapporteur that they are particularly concerned about bride abduction and that a draft amendment to the Penal Code has been submitted to the Republican Duma to address this.

53. Ensuring security and establishing a sustainable peace in Chechnya were the priority concerns for everyone the Special Rapporteur spoke to in the region. However, it is evident that the conflict and the current military operations have had contradictory implications for women. Some women reported greater solidarity and less abuse within the family in response to the losses they experienced during the conflict. Others, however, including young women, were more burdened by the pressures of patriarchal scrutiny.

54. Particularly with the constantly growing number of widows, the role of Chechen women is changing. These widows work outside the home in order to support their families. A woman whose husband has been killed or has disappeared does not receive a pension or any other form of support. The disappearance and death of loved ones have numerous psychological consequences for women, including trauma, stress, anxiety and insecurity.<sup>26</sup> Since 1994, many women have organized in reaction to human rights violations, in particular the widespread disappearances. While this has empowered women, it has also created new vulnerabilities as they become potential targets during security operations.

#### **Targeted operations perpetrated by State agents**

55. Six years after the resumption of hostilities, violence continues to prevail in the North Caucasus. Although men are the targets of most human rights violations perpetrated by State agents, women are increasingly targeted, both as relatives and as targets themselves. The Special Rapporteur heard testimonies from relatives of women who had disappeared and had been victims of extrajudicial execution, torture, rape and ill-treatment allegedly by members of the security forces. The Special Rapporteur was told that the bodies of 3 women had been found dumped in Grozny at the time of her visit and that the fate of another 21 women remained unclear. In the absence of the rule of law, the civilian population suffers abuse by both security forces and Chechen armed groups, creating a climate of fear and insecurity. People expressed the opinion that a war was better than the current situation of “guerrilla warfare”, which makes life totally unpredictable, distracts international attention and diverts humanitarian assistance from the region.

56. The authorities explained that targeted operations are not a State policy. However, women have become even more vulnerable to human rights violations due to the counter-terrorist strategy adopted in response to suicide bombings allegedly committed by “black widows”, the term for Chechen women avenging the deaths of family members. On 9 July 2003, Order No. 12/309 also known as “Operation Fatima” was issued, instructing police to detain all women wearing traditional Muslim headscarves. Reportedly women are also strip-searched at military checkpoints. Local NGOs explained that such operations were most humiliating for women as sometimes male guards conduct the searches in front of their family members.

57. The Special Rapporteur was also informed that under “Operation Fatima”, women are arbitrarily detained and criminal charges are opened against them. While in detention, they may encounter torture and gender-specific violence, such as rape and other kinds of sexual abuse<sup>27</sup> to make them reveal the whereabouts of male relatives or to “confess” to crimes such as trafficking

of weapons. Very few cases of sexual abuse are reported to the authorities, in part due to tremendous shame, social stigma and patriarchal repercussions, as revealed by the following statement of a Chechen woman.

58. “If they (raped women) come home, they would be better off shooting themselves. If anyone laid a hand on them they’d be written off for good here in Chechnya. It’s a kind of law. A sullied daughter is worse than a dead one to her father. It’s a terrible disgrace. She’ll never get married and no one will say a kind word to her, even though it’s not her own fault she was dishonoured.”<sup>28</sup>

59. “Operation Fatima” has led to many women being detained on weak legal grounds. During the visit of the Special Rapporteur, *Moscow News* ran a story about a Chechen woman, Ms. Murtazalieva, who was detained on suspicion of recruiting terrorists and planning terrorist acts in Moscow.<sup>29</sup> Human rights defenders informed the Special Rapporteur that the evidence presented against her was very weak. The Special Rapporteur expressed her concern to the Government about this and other similar cases, as Caucasian women generally seem to be increasingly targeted.<sup>30</sup>

60. In addition to fear of being ostracized by the community and family, many women reportedly also fear reprisals by the police or security forces. In cases where women have attempted to report these crimes, the police have allegedly not started any criminal investigation.<sup>31</sup>

61. Women in Chechnya are also targeted due to their relationship to Chechen fighters, or alleged fighters. Punitive actions against relatives include burning private homes, destroying their means of livelihood, and hostage-taking to force the fighters out of hiding or to extort information about their whereabouts.

62. After the Beslan school hostage-taking in September 2004, more than 300 relatives of the hostage-takers, including women and children, were reportedly detained by official command. On 29 October 2004, the Prosecutor-General of the Russian Federation, Vladimir Ustinov, said that hostage-taking of terrorists’ relatives should be legalized as a way to force terrorists to surrender.<sup>32</sup> Although he subsequently retracted this statement, the Special Rapporteur received testimonies indicating that relatives of suspected terrorists continued to be detained to compel terrorists to surrender. The detention of innocent people as hostages by the State is contrary to international law. Chechen women, often the only remaining relatives, are thereby made vulnerable to incommunicado detention, torture and ill-treatment. Furthermore, it has been observed that this strategy is counter-productive as for Chechen men, inability to protect their women and elders is a strong blow on dignity and it strengthens the motivation of combatants to continue the guerrilla war by urge for revenge.<sup>33</sup>

63. In January 2005, the human rights group Memorial reported the disappearance of seven relatives of the former Chechen leader Aslan Maskhadov, including his sister, two brothers, a niece and a nephew.<sup>34</sup> According to eyewitnesses, they were detained in December 2004 by the Republican Security Service under the command of Ramzan Kadyrov and taken to an unknown location. These kidnappings received international media attention and



evoked protests from many quarters. At the end of January, the Russian authorities announced that investigations were under way and indicated that they had launched three criminal cases against three commanders in the federal forces in connection with the kidnapping of Maskhadov's relatives.<sup>35</sup> However, the whereabouts of the kidnapped persons are still unknown.

### **Violence experienced by internally displaced women**

64. Since 1999, when the second Chechen war started, some 95,000 Chechens sought refuge in the neighbouring Republic of Ingushetia and are still living there as IDPs.<sup>36</sup> According to the Danish Refugee Council, in October 2004, there were 22,186 internally displaced women in Ingushetia, constituting 54.5 per cent of the registered IDP population - an increase by 20 per cent in the last three years. UNHCR explained that the large number of women IDPs is mainly due to the phased return of IDP families to Chechnya, whereby male heads of household return first; and the ongoing flow of Chechen male IDPs seeking asylum abroad. Ingushetia, previously regarded as a relatively safe haven for Chechen refugees has since 2003 also become prone to human rights abuses.

65. During her mission, the Special Rapporteur visited a temporary settlement in Ingushetia for Chechen IDPs. At a meeting with a group of women, she was told that their main concern was the continuing insecurity in Chechnya, where they feared they might be forced to return. In addition, there are numerous reports of targeted operations taking place against the camps in Ingushetia.<sup>37</sup> This was confirmed by the women the Special Rapporteur met with, who told her about regular passport controls in the camp, reportedly carried out by Russian security officers wearing masks and arriving in vehicles with number plates blacked out. The women also spoke of corruption; for example, they were often forced to pay bribes in order to pass checkpoints.

66. Apart from the primary concern of security, many IDPs in Ingushetia do not want to return to Chechnya as the majority of houses in Chechnya, particularly in Grozny, have been completely or partially destroyed, both as a result of fighting and deliberate destruction by Russian forces or Chechen fighters, and if their homes have not been destroyed, other people may have taken possession of them. In these circumstances, returning IDPs would be forced to live in temporary accommodation centres (TAC). There are not enough TACs and the living conditions are precarious, there is no water, electricity, gas and sanitary facilities, and they are overcrowded.

67. Allocation of shelter in the TACs is based on a 3.2 m<sup>2</sup> per person rule. As a result, strangers may have to share a small unit. A Chechen woman the Special Rapporteur spoke to in a TAC between Ingushetia and Grozny shares the dwelling with 12 other persons. She reported that other residents have repeatedly beaten and abused her in order to force her out. She has been to the TAC doctor for her injuries but was unable to escape the hostile and violent environment since complaints were not well received by the authorities.

68. There are worrying reports of Russian and Ingush authorities forcing Chechen refugees in Ingushetia to return to Chechnya, or pressuring them to leave through harassment, threats and reduction of humanitarian assistance in the camps. Several IDP settlements have been closed, forcing the IDPs to find shelter elsewhere. The Government has offered incentives to return,

including promises of help with transportation, shelter in a TAC, some humanitarian supplies and a certain amount of money. However, reports from returnees indicate that these promises seldom materialize and that they are faced with inadequate housing and no means of making a living. Part of the problem is allegedly caused by corruption. People in the region reported that federal money transferred to the region for compensation and rebuilding has allegedly been misused by local authorities. The general perception is that the more corrupt and criminal a person is, the greater chance that he will be promoted.

## **B. State response to the violations of women's human rights**

### **Legal framework**

69. As noted earlier, Russia has ratified key international and regional human rights instruments. In February 2005, the European Court of Human Rights rendered its judgements in three cases concerning Chechnya, one involving extrajudicial killings (*Khashiyev and Akayeva v. Russia*<sup>38</sup>) and two involving indiscriminate bombing in Chechnya (*Isayeva, Yusupova and Bazayeva v. Russia*<sup>39</sup> and *Isayeva v. Russia*<sup>40</sup>). In all three cases, the Court found that among other violations the Russian Federation had violated article 2 of the European Convention on Human Rights, concerning the right to life.

70. The Federal Government has framed the current military operations in Chechnya as counter-terrorist operations. It has been reported to the Special Rapporteur that women have been prosecuted under article 205 of the Criminal Code, dealing with terrorism. The Ministry of Foreign Affairs informed the Special Rapporteur that a new anti-terrorism bill was being considered by Parliament, aimed primarily at protecting life and ensuring that anti-terrorism operations were conducted in accordance with safeguards to protect human rights. Welcoming the assurances of the Government, the Special Rapporteur would like to draw attention to General Assembly resolution 57/219 of 18 December 2002, in which the Assembly affirmed that States must ensure that counter-terrorist measures comply with their obligations under international law, especially human rights, humanitarian and refugee law.

71. As mentioned above, a federal ombudsman has been appointed, who has the power to receive individual complaints. Also, between 2000 and 2004, there was a Special Representative of the President of the Russian Federation for ensuring human and civil rights and freedoms in the Republic of Chechnya. However, in January 2004, President Putin abolished this position in view of the adoption of the Constitution in Chechnya and the election of the Chechen president. While the new Chechen Constitution foresees establishing a regional ombudsman to receive allegations of human rights abuses, the Parliament must be elected and pass a law in order to give effect to this constitutional provision. The military prosecutor in Chechnya suggested that a parallel entity headed by a female parliamentarian is needed to monitor human rights violations against women. In the meantime, the Council of Europe has supported the idea of establishing a provisional Ombudsman to act on the over 18,000 pending complaints on violations or omissions by the authorities.<sup>41</sup>

72. Numerous orders and decrees aimed at protecting human rights during “cleansing operations” (military raids) have been issued, but reports indicate that these have been largely ineffective in combating the widespread problem of disappearances, extrajudicial executions and torture, including rape.<sup>42</sup> For example, Order No. 80 issued by General Moltensky in 2002 provided that operations to verify addresses should be carried out by personnel who clearly identified themselves in the presence of the prosecutor, NGO representatives and village elders. It also required that the number plates of military vehicles be clearly visible. Despite this directive, reports indicate that military operations continue to be conducted in a manner that makes identification of the personnel involved impossible.<sup>43</sup>

73. As explained above, Operation Fatima, designed to target potential women terrorists, puts women at particular risk of being detained. While the Government reports that this operation has allowed the prevention of at least 10 terrorist attacks, there is concern that the operation unduly restricts the rights of Chechen women.

### **Impunity and obstruction of justice**

74. On 24 March 2003, Sergei Yastrzhembsky, Adviser to the Russian President, announced that 50 servicemen had been convicted for crimes committed against civilians in Chechnya. However, information from Memorial indicates that few of those servicemen were actually punished (only 19 were sentenced to effective deprivation of liberty).<sup>44</sup>

75. The Russian human rights commissioner Vladimir Lukin said on 10 December 2004 that 1,700 criminal cases involving disappearances of people in Chechnya had been launched since the beginning of 2004. The Commissioner for Human Rights of the Council of Europe reported that since Russian law had been reintroduced in the Chechen Republic, 1,749 criminal investigations had been opened into the disappearances of 2,400 people. He also acknowledged that the vast majority of those investigations had been put on hold.<sup>45</sup> Additionally, human rights organizations report that there has not been a single conviction for enforced disappearance, despite recognition that the practice is widespread in the Republic.<sup>46</sup>

76. With regard to prosecutions for violence against women in Chechnya, the information received by the Special Rapporteur suggests that such cases are rarely prosecuted and punished. Memorial reports that in two cases where the perpetrators were found guilty of rape, they were only sentenced to symbolic punishments and were not actually deprived of their liberty.<sup>47</sup> The case against Colonel Yuri Budanov is an exception. On 25 July 2003, Colonel Budanov was found guilty and sentenced to 10 years in prison for the murder of Elza Kungaeva, a 19-year-old Chechen woman. It was however only following a public outcry that Colonel Budanov was prosecuted but, despite evidence that he had raped Ms. Kungaeva, he was only charged with murder.

77. The impunity surrounding crimes committed in Chechnya is confirmed by many different sources. The system functions by using a pattern of repression to restrict the collection and dissemination of information about human rights abuses, as well as severely limiting access to

justice and thus effectively preventing perpetrators from being punished. It also constitutes an effective means of spreading fear and silencing the population. Women's groups and organizations in the North Caucasus feel particularly vulnerable as they have been active in publicizing the human rights violations in the region.

78. While in Russia, the Special Rapporteur was told that it is nearly impossible to identify perpetrators who take part in targeted "cleansing" operations. They reportedly arrive in villages in armoured vehicles with smeared number plates. Dressed in camouflage uniforms, wearing masks and carrying automatic weapons, they enter private houses and ask for identification papers without identifying themselves. It was reported to the Special Rapporteur that they then kidnap people and take them to unknown locations. The bodies of the disappeared are sometimes recovered, often bearing signs of torture, in unmarked dumping sites or mass graves, often close to military bases. Sometimes the bodies are unrecognizable.

79. Apart from the difficulty of identifying perpetrators, a major obstacle to ensuring that perpetrators of human rights violations in Chechnya are prosecuted is the existence of two prosecutorial bodies, the military and the civilian procurators. The military prosecutor reportedly only handles crimes committed by military personnel. Civilians cannot appeal directly to the military procuracy about crimes committed by military personnel but must go to the civilian prosecutor's office, which is supposed to forward complaints to the military prosecutor's office.<sup>48</sup> The civilian prosecutor handles crimes committed by civilians under the control of the Ministry of the Interior, such as OMON (the militia regiment for special purpose), police and combat units. While the civilian prosecutors in Chechnya have reportedly filed cases against alleged perpetrators of human rights abuses, very few cases have resulted in actual convictions. Many cases have reportedly been closed or suspended.<sup>49</sup> In other cases, the civilian prosecutor does not have access to military bases where civilians are being detained, but if the civilian prosecutor refers cases to the military prosecutor, the latter is allegedly not competent to handle cases involving civilians, even where the civilian is being detained on a military base.<sup>50</sup> Thus, these cases remain stuck between the two institutions and the perpetrators escape accountability.<sup>51</sup>

80. There are other barriers to justice for victims of human rights abuses in Chechnya. With only 10 functioning courts in the whole Republic, physical access to the courts is a major problem for many civilians. Travelling to the courts is dangerous for many Chechens, particularly women, who may be arbitrarily detained at checkpoints or risk other problems. Most people also cannot afford the cost of legal aid. Additionally, many victims have reported that they are afraid to go to the authorities to register complaints because of possible retaliation against them or their families. For example, according to reports some relatives of disappeared persons who lodged complaints with the European Court of Human Rights have faced harassment, threats, attacks, ill-treatment, kidnapping or, in some cases, have been killed. Human rights defenders and journalists have also been attacked for their work monitoring and reporting on human rights abuses. Since there is no witness protection programme, those who speak out often must flee to escape reprisal. Women witnesses, because of their domestic obligations, are less likely to be sent away to safety, and therefore, may be at greater risk of being abducted or murdered.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

81. The Russian Federation emerged out of a multi-ethnic nation that was committed to transcending all sex and class distinctions. The creation of the Federation with its political restructuring and transition to a market economy revealed that the Soviet legacy of egalitarianism was transient. Instead, the transition process entailed multiple challenges for Russia with contradictory implications for the situation of women in general and for those in the North Caucasus in particular.

82. Women bear a disproportionate share of the negative consequences of transition, which has been accompanied by an upsurge in patriarchal attitudes towards gender relations. This is evident from the barriers to women's equality, especially in the areas of employment and political participation and from reports of increased and widespread violence against women, particularly domestic violence, sexual abuse and trafficking. Without firm political will and a commitment to implement established standards, violence against women, which is rooted in inequality and discrimination against women, will not be eliminated.

83. The situation of women in the North Caucasus is marked by additional abuses as a result of the ongoing military operations. Throughout 70 years of socialist experience, the Soviet policy towards the diverse nations of the Union played a key role in keeping ethnic boundaries intact, which in the North Caucasus has been a source of contestation to the territorial integrity of the Federation. Chechen women suffer direct and indirect consequences of widespread destruction and diverse forms of violence in the region.

84. Violence against women in both contexts threatens the advancement of the Russian Federation and the security of all its citizens. In this regard, prioritizing women's rights and addressing violence against women in policy development and legislative reform are urgent challenges confronting the Government. The Government has the obligation to exercise due diligence to prevent and respond to acts of violence against women, whether those acts are perpetrated by the State or by private actors.

85. To conclude, Russia's historically rooted State tradition, its role in international affairs and its commitments to human rights standards offer an opportunity for the Government to mobilize society to put an end to violence against women. This requires first and foremost the political will to prioritize women's rights.

86. In light of the above, the Special Rapporteur would like to address the following recommendations to the Government of the Russian Federation.

##### **A. General recommendations**

- Develop and implement a national human rights action plan, which provides for the full protection of all human rights for all persons in the Federation;
- Investigate all allegations of human rights violations and ensure that perpetrators of human rights violations are held accountable;

- **Eliminate discrimination against women in all fields, including in employment, guaranteeing equal pay for equal work, as prescribed by the recommendations of CEDAW as well as those contained in recommendations of other treaty bodies;**
- **Establish, in accordance with the Beijing Platform for Action, national machinery for the advancement of women, at the highest level and with the power to make binding policy decisions and allocate the necessary human and financial resources to ensure its effective functioning;**
- **Create a parliamentary committee on violence against women, including in the context of the situation in the North Caucasus;**
- **Collect data in all fields, disaggregated by gender, and support research on gender issues to guide policy and programmes;**
- **Support and strengthen women's NGOs, including by amending the tax law to enhance their capacity to contribute effectively to the elimination of violence against women.**

#### **B. Domestic violence**

- **Ensure protection by legislative reform by:**
  - Adopting specific legislation on domestic violence, providing for full protection of victims, unhindered access to medical, social and legal services, and for perpetrators to be held accountable;**
  - Amending housing legislation to assist women victims of violence to escape violent households, enforcing the abolition of *propiska* registration systems, and considering the adoption of legislation that would provide for the eviction of a violent partner from the shared living space;**
- **Establish shelters and crisis centres to assist women victims of violence and assist NGO initiatives;**
- **Promote changes in gender-sensitive attitudes and behaviours by:**
  - Providing training to police, prosecutors, judges, medical personnel and others having contact with women victims of violence on proper handling of such cases, while ensuring full respect for women's human rights;**

**Promoting media campaigns to sensitize the public about women's human rights and to change gender biases, particularly regarding the acceptance of male infidelity and aggression as normal, and changing school curricula accordingly.**

**C. Violence against women in the North Caucasus**

- **Take the necessary measures to prevent and protect women's human rights by:**

**Ensuring that discrimination against women is not legitimized by the passage of anti-terrorism legislation and that when women are detained or arrested, a female police officer is present at all times;**

**Supporting the establishment of an ombudsman in the Republic of Chechnya who would be empowered to receive and act upon individual complaints of human rights violations;**

**Enforcing orders designed to protect against arbitrary detention and enforced disappearances, ensuring that operations against people's homes are properly conducted by clearly identifiable State agents, in clearly identifiable vehicles, in the presence of representatives of the prosecutor and civil society;**

**Rebuilding the courts in Chechnya, establishing necessary procedures to guarantee access to justice (including the provision of free legal aid to those in need) and ensuring that female prisoners have access to their basic rights including the right to family visits;**

- **Investigate all allegations of human rights violations and prosecute the perpetrators by:**

**Establishing clear jurisdiction between military and civilian prosecutors to ensure that all human rights violations are appropriately investigated in a transparent manner and that victims of human rights violations and their legal representatives are made fully aware of the jurisdictional procedures;**

**Urgently ensuring the timely resolution of pending cases of alleged disappearance and other human rights violations, and communicating the conclusions to the victims or their family members;**

**Preventing and investigating any attacks on and reprisals against human rights defenders and supporting their work to document, monitor and report on human rights violations in the region;**

- **Ensure the rights and safety of IDPs by:**
  - Providing protection against the forced return of IDPs from Ingushetia until the situation in Chechnya has stabilized;**
  - Ensuring that TACs meet basic minimum living standards and that women who live there are protected from violence and abuse;**
  - Recognizing ethnic Ingush who fled North Ossetia as IDPs and enabling them to receive the accompanying rights and benefits;**
- **Rebuild infrastructure and housing in Chechnya in order to enhance and stabilize the socioeconomic situation in Chechnya.**

### Notes

<sup>1</sup> Russia initiated the first world conference in the Hague on international law to discuss humanitarian affairs in 1899. See S.V. Chugrov, 2000 “Russian foreign policy and human rights: Conflicted culture and uncertain policy”, in D.P. Forsythe (ed.) *Human Rights and Comparative Foreign Policy*. Tokyo: UN University Press: 149-177.

<sup>2</sup> OMCT, 2003 Violence against Women in Russia, report prepared for the thirty-first session of the Committee on Economic, Social and Cultural Rights: 11 [hereinafter OMCT, VAW in Russia].

<sup>3</sup> Consortium of Women’s Non-governmental Associations, CEDAW shadow report, (undated): 6 [hereinafter Consortium of Women’s NGA].

<sup>4</sup> Ibid: 6.

<sup>5</sup> International Helsinki Federation for Human Rights (IHF-HR), Women 2000: Russia (Investigation into the Status of Women’s Rights in Central and South-Eastern Europe and the Newly Independent States): 374 [hereinafter IHF-HR, Women 2000: Russia] (citing a poll in which 56.3 per cent of respondents indicated that men should have priority to jobs).

<sup>6</sup> Moscow Helsinki Group, Discrimination against Women in Contemporary Russia, The right to equal remuneration, available at <http://www.mhg.ru/english/1ECE92D>.

<sup>7</sup> Consortium of Women’s NGA: 11.

<sup>8</sup> Ibid: 6.

<sup>9</sup> See J. Hughes, 2002 “Managing Secession Potential in the Russian Federation”. J. Hughes and G. Sasse (eds.) in *Ethnicity and Territory in the former Soviet Union: Regions in Conflict*. London, F. Cass: 37.



<sup>10</sup> See D.V. Trenin, A.M. Malashenko, 2004 *Russia's Restless Frontier*, The Washington, D.C., Carnegie Endowment for International Peace: 13; OMCT, 2003 *Chechnya: No Means to Live*, An Appraisal of Violations of Economic, Social and Cultural Rights in Chechnya: 15-18 [hereinafter OMCT, Chechnya, No Means to Live].

<sup>11</sup> See Report of the High Commissioner for Human Rights on the situation in the Republic of Chechnya of the Russian Federation (E/CN.4/2002/38).

<sup>12</sup> Human Rights Watch, 2005 *Worse than a War: "Disappearances" in Chechnya - a Crime against Humanity* [hereinafter HRW, *Worse than a War*]; International Helsinki Federation for Human Rights (IHF-HR), *The Silencing of Human Rights Defenders in Chechnya and Ingushetia*; Amnesty International, Russian Federation, Chechen Republic, "Normalization" in Whose Eyes?; OMCT, Chechnya, No Means to Live.

<sup>13</sup> The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment made a public statement on 10 July 2003 expressing concern that "[t]here is continued resort to torture and other forms of ill-treatment by members of the law enforcement agencies and federal forces operating in the Chechen Republic. Further, the action taken to bring to justice those responsible is slow and - in many cases - ultimately ineffective." See also, report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to the Russian Federation from 15 to 30 July 2004 and 19-29 September 2004, Council of Europe, CommDH, 2005: 2 [hereinafter COE Gil-Robles report].

<sup>14</sup> See OMCT, Chechnya, No Means to Live: 18-19.

<sup>15</sup> See for example, IHF-HR, *Women 2000: Russia*; WHO and Moscow Research Institute of Psychiatry, The Ministry of Health of the Russian Federation (Dr. Dmitry Yu Veltishchev), 2003 *Violence and Health in Russia, Statistical Review* [hereinafter WHO and Moscow Research Institute, *Violence and Health in Russia*]; OMCT, 2003 VAW in *Russia*.

<sup>16</sup> IHF-HR, *Women 2000: Russia*: 381.

<sup>17</sup> WHO and Moscow Research Institute, 2003 *Violence and Health in Russia*: 15.

<sup>18</sup> Excerpt from G's statement to a court in West Siberia (cited in Amnesty International, 2003 *Russia's Hidden Shame*: 2 available at [http://web.amnesty.org/library/pdf/EUR460292003\\_ENGLISH/\\$File/EUR4602903.pdf](http://web.amnesty.org/library/pdf/EUR460292003_ENGLISH/$File/EUR4602903.pdf)).

<sup>19</sup> Adopted 06/1983, revised 07/04, revised 03/05.

<sup>20</sup> A/57/38, Part I, para. 389, and E/C.12/1/Add.94, para. 24, respectively.

<sup>21</sup> HRW, 1997, *Russia, Too little too late*: 2.

- <sup>22</sup> IHF-HR, Women 2000: Russia: 382.
- <sup>23</sup> Presidential Law No. 314 “About the system and structure of the federal executive authorities”, dated 9 March 2004.
- <sup>24</sup> Resolution No. 215 “About regulating of the composition of the coordination, advisory and other bodies, established by the Government of Russia”, adopted 16 April 2004.
- <sup>25</sup> Russian Federation, response to Beijing +10 questionnaire, available at <http://www.un.org/womenwatch/daw/Review/responses/RUSSIAN-FEDERATION-English.pdf>.
- <sup>26</sup> OMCT, 2003 Chechnya, No Means to Live: 35.
- <sup>27</sup> See for example, “Rape and Other Torture in the Chechnya Conflict: Documented Evidence From Asylum Seekers Arriving in the United Kingdom”, by the Medical Foundation for the Care of Victims of Torture.
- <sup>28</sup> Petra Procházková, *Aluminum Queen*, 7 April 2002, republished by Prague Watchdog, available at <http://www.watchdog.cz>, cited in OMCT, 2003 Chechnya, No Means to Live: 18.
- <sup>29</sup> *The Moscow News*, Would-be terrorist caught in Moscow, 19.12.04.
- <sup>30</sup> In 2004 and 2005, the Special Rapporteur communicated with the Government regarding a number of individual cases concerning women in Chechnya and Ingushetia. For the details of the cases and the government replies see: E/CN.4/2005/72/Add.1, paras. 347-371 and E/CN.4/2006/..., paras. ..., respectively.
- <sup>31</sup> OMCT, 2003 Chechnya, No Means to Live: 32; HRW, *Russia: Investigate Sexual Violence by Troops in Chechnya*, 10 April 2002.
- <sup>32</sup> See Statement of the Working Group on Arbitrary Detention, Rights Experts Concerned over Remarks on Counter-Terrorism by Russian Official (4 November 2004).
- <sup>33</sup> Memorial, Human Rights News, Chechnya 2004: “New” Methods of Anti-Terror - Hostage-taking a repressive action against relatives of alleged combatants and terrorists (17 March 2005).
- <sup>34</sup> Ibid.
- <sup>35</sup> Russia Investigates Kidnappings of Chechen Rebel Leader Maskhadov’s Relatives, available at <http://www.hrv.net/news2005/1-2-05.html>.
- <sup>36</sup> OMCT, 2003 Chechnya, No Means to Live: 58. Aside from IDPs from Chechnya the Special Rapporteur also visited a temporary settlement of ethnic Ingush IDPs who fled from North Ossetia in the early 1990s. These persons are not recognized as refugees and UNHCR is not able to assist them since their mandate only addresses IDPs having fled the

second Chechen conflict. Although the United Nations and international NGOs such as ICRC have provided limited assistance, both the Ingush IDPs and the local officials in the Republic of Ingushetia expressed concern about the selective response of the international community to the problems in the region.

<sup>37</sup> OMCT, 2003. *Chechnya, No Means to Live*: 57.

<sup>38</sup> Nos. 57942/00 and 57945/00.

<sup>39</sup> Nos. 57947/00, 57948/00 and 57949/00.

<sup>40</sup> No. 57950/00.

<sup>41</sup> COE Gil-Robles report: 72.

<sup>42</sup> Amnesty, 2002. *The Russian Federation, Denial of Justice*: 71-73.

<sup>43</sup> COE Gil-Robles report: 70.

<sup>44</sup> Memorial, 2003. *Situation on the investigation on crimes against civilians committed by members of the Federal Forces in the Chechen Republic during military operations, 1999-2003*: 7-8 [hereinafter Memorial, *Deceptive Justice*].

<sup>45</sup> COE Gil-Robles report: 74-75.

<sup>46</sup> See HRW, 2005. *Worse than a War*: 6.

<sup>47</sup> Memorial, 2003. *Deceptive Justice*: 10 (explaining that in one case “the serviceman was condemned to four years of deprivation of liberty, and was suspended for five years”, and in another case, “the serviceman, O. was condemned to five years of deprivation of liberty on probation of five years”).

<sup>48</sup> Amnesty, 2002. *Denial of Justice*: 68.

<sup>49</sup> HRW, 2005. *Worse than a War*: 18.

<sup>50</sup> Council of Europe, *Recommendation of the Commissioner for Human Rights, concerning certain rights that must be guaranteed during the arrest and detention of persons following “cleansing” operations in the Chechen Republic of the RF* (Strasbourg, 30 May 2002).

<sup>51</sup> COE Gil-Robles report: 70-71.

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