

Recent Measures to Combat Violence against Women in Europe

"It starts with screams but must never end in silence"¹

Madam Chairperson
Distinguished Participants,
Colleagues and Friends,

It is a great pleasure and honour for me to contribute to this Conference. I thank the organizers the International Association of Women Judges (IAWJ) and the Asociación de Magistradas y Juezas de Panama (AMAJUP) for their hospitality en for the opportunity they have offered me to share my thoughts with all of you.

The aim of this presentation is to give you insight in the measures the European countries take to combat violence against women, including domestic violence.

Firstly, I will give you some figures about the prevalence of violence against women in Europe and give you an overview of the activities of the Council of Europe in their campaign "Stop Violence against women".

Secondly, I will have closer look at some aspects of the campaign: why it is important to involve men, especially the so-called bystanders.

Finally I will look at legal measures and practices to combat violence in European countries, in particular in Spain and my own country The Netherlands.

Violence against women, some figures

Violence against women, including domestic violence, is a gender-based human rights violation which concerns all of us. Violence and abuse affect all kinds of people every day. It doesn't matter what race or culture you come from, how much money you have, how old you are, or if you have a disability. Violence does not discriminate.

Violence against women in any form is a crime, whether the abuser is a family member; a current or past spouse, boyfriend, or girlfriend; a date or an acquaintance. Women suffering from violence are not only victims of abuse; they are also victims of indifference and victims of abandonment.

A recent in-depth Study of the United Nations Secretary-General on all Forms of Violence against Women launched in October 2006 confirms that violence against women is a universal phenomenon that persists in all countries of the world. The Study, other research and testimonials from women and girls world-wide provide evidence that domestic violence is the leading cause of injury and death for women worldwide.

Figures gathered by the Council of Europe, representing 46 member states and their 800 million citizens, show that violence happens in every European country. Although statistics are difficult to compare from country to country because of the different research methods, studies for individual countries show that:

- Across European countries one fifth to one quarter of all women have experienced physical violence at least once during their lives, and more than one-tenth have suffered sexual violence;

¹ This is the slogan of the Council of Europe's campaign "Stop domestic violence against women". ...

- Figures for all forms of violence, including stalking, are as high as 45%;
- Most violent acts against women are carried out by men in the immediate social environment, most often partners and ex-partners;
- It is estimated that about 12% to 15% of all women have been in a relationship of domestic abuse after the age of 16;

A recent Finnish study showed that over half of adult women have been victims of violence or sexual threat. In Ireland, half of all murder victims are women killed by their male partners. In The Netherlands in 1997 a large scale study was conducted by order of the Ministry of Justice. The study concluded that:

- 27% of the respondents had at some point been the victim of domestic violence manifesting itself either *weekly* or *daily*.
- In the case of 21% of the respondents this lasted more than five years.

Domestic violence is not confined to women. Boys and men are also victim of domestic violence. However, the violence against women appears to have increased in intensity. Violence against women is often sexual. In 80% of the cases the offender is male. And another problem: only in 12% of the cases in Holland had the victim reported the violence to the police.

As these figures suggest, it is clear that this violence takes place all around us: among our friends, colleagues and family members. Too many women continue to live in fear of their own home or in fear of someone who was once close to them.

The campaign of the Council of Europe

The Recommendation

In the past 30 years the Council of Europe, has worked hard to eliminate any interference with women's liberty and dignity. The Council of Europe has undertaken a serie of initiatives to promote the protection of women against violence. One of the most important initiatives is the Recommendation (2002) 5 of the Committee of Ministers to member states on the protection of women against violence. This legal instrument was the first international instrument to propose an overall strategy to prevent violence and to protect victims, covering all forms of gender-based violence, including domestic violence.

The Recommendation spells out clearly that states have an obligation to exercise due diligence to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the state or private persons, and provide protection for victims. Invoking custom, religion or tradition are no excuses to evade this obligation.

As regards the measures the Recommendation puts forward, it does not only list legal measures to criminalise all forms of violence against women - such as sexual violence and rape in the marriage - but it also covers protective and preventative measures leading to concrete action.

The Recommendation proposes a comprehensive strategy to prevent violence and protect victims. It does not only include one form of violence, but covers all forms of gender-based violence, including domestic violence. For all these forms of violence, it includes specific measures which member states are recommended to take. These range from detailed legal and policy measures to services and assistance for women victims of violence as well as concrete action in the fields of education, training, public awareness and the media.

The Recommendation is not limited to listing legal and policy measures. It does more than that. It recommends the recognition of two fundamental principles which any action to combat violence against women needs to be based on. The first is the fact that Council of Europe member states have an obligation to exercise due diligence to prevent, investigate and punish acts of violence. This means that it is not an act of good-will to protect women from violence but that member states are firmly obliged to do so.

The second is the fact that male violence against women is a major structural and societal problem, based on unequal power relations between women and men. This is also reflected in the status of women in many areas of public and economic life.

The Council of Europe has made the fight against violence against women a political priority. As I pointed out earlier, despite many positive and significant achievements in policies and practices, violence against women in its various forms remains widespread at all levels of society, in all Council of Europe member states. This is why the Heads of State and Government have decided during the 3rd Summit of the Council of Europe in Warsaw to set up a Task Force to Combat Violence against Women, including Domestic Violence and to conduct a Campaign on this topic in close co-operation with other European and national actors, including NGOs.

The Campaign

The Council of Europe Campaign was launched in Madrid in November 2006 and will end in 2008. During this period, but also beyond, all the 46 member states are invited to make real progress in preventing and combating violence against women. The member states will in their national campaigns include measures for implementation of the Recommendation Rec(2002)5 on the protection of women against violence.

One of the objectives of the Campaign is to raise awareness about the existence and the extent of domestic violence in our societies. It is also intended to encourage women to seek help by informing them of the possibilities which already exist today. However, awareness is an important step, but it is not enough.

Protecting women from violence is impossible without a legal system that treats domestic violence as the serious crime it is. An important objective of the European campaign is to ensure that in the member states an appropriate legal framework is in place to punish the offenders, assist and protect victims and promote gender equality policies that will contribute to stopping domestic violence.

Efforts to prevent domestic violence should not be limited to an effective legal framework. The Recommendation states as its fundamental principle that all measures should be based on empowerment of victimized women and their free exercise of human rights, ensuring all necessary measures of protection, support and services.

Governments, parliaments, local and regional authorities, NGO's as IAWJ, judges, we all need to work together and pool our resources if we want to reach concrete results, such as

- create safe houses for victims of domestic violence and their children
- set up support facilities in police stations to make sure that the complaints lodged by women victims of violence with the police are taken seriously and are dealt with adequately;

- prosecute perpetrators and remove them from home
- train staff working in health services, care, police, justice, social and education services.

As a judge I think that the last action is very important. Today too many women are met with disbelief when they tell their story to policemen, social workers or even in court. This cannot be accepted: training programmes for all professionals who may end up dealing with women victims of domestic violence must be strengthened so that the victims are met with the care and respect.

The need to involve men

Finally, when discussing domestic violence, we are talking primarily about men's violence. The focus of the actions must also be on the men and on prevention. Gender based violence has profound roots in historically unequal power relations between women and men. It is entrenched at all levels of our societies: personal, community and society. Moreover, religious or cultural beliefs supporting male dominance, negative portrayal of women by the media, in advertising, in video-clips in the music industry, to name just a few, become breeding grounds for violence against women.

In recent years, European countries have taken up the topic of men and violence within the family looking at the multiple roles of men in the context of violence within the family. In research the role of men as offenders of violence, as victims of family violence, as well as their role in both preventing violence within the family and protecting the victims of such violence, are examined. Those studies show that for stopping violence against women we also have to focus on men and boys, in particular the so-called "bystanders". They are the ones who do nothing to stop violence even though they are aware of or even witness it. There is much men and family members can do. They can speak against violence and mobilise others to do so as well. And thirdly, men can act as role models for other men against the violence.

Men can also help in organising to counteract domestic violence. This happened in the United Kingdom where women's organisations welcomed the involvement of men in their campaign. And probably you have heard of the White ribbon campaign that operates in 40 countries around the world. This campaign by men with men aims to educate and raise awareness and to put an end to violence against women. This is a private initiative, relying on voluntary campaigning and fundraising. Wearing a white ribbon is a pledge never to commit, condone or remain silent about violence against women. In 2006 the White ribbon organisation in the UK had four Football teams as well as Rugby teams supporting the work, one of them the football club Liverpool.

Legal Measures

For us judges it is interesting to explore how legal measures can be used effectively to protect women from violence. In countries like Austria, the Czech Republic, Denmark, and Finland legislation has been introduced empowering the police to expel a person from premises on the grounds that his/her presence would pose a risk to another person living there. These provisions have complemented the powers of the police to arrest a suspect. In Luxembourg and Sweden the power of the police to expel the offender or suspect depends on the consent of the public prosecutor. Other legislations, such as the French one, base the expulsion order on a court decision. In Ireland (as well as in the UK) the first measure, carried out by the police, is not the expulsion but the arrest of the offender.

A very interesting development has taken place in Spain: the so called “Specialisation of the Violence against Women Courts”. The Spanish law includes procedural measures that will allow for fast, summary proceedings, but also combines, in the civil and criminal spheres, protection measures for the women and their children. This specialised Court started in 2004 and after some hesitation the public in Spain now is convinced of the need, efficiency and importance of this judicial specialisation. In case of an alleged domestic assault by – let’s say – the husband the instructing judge in Spain can open a criminal investigation, the so-called preliminary diligences. Even in the case that the wife refuses to receive legal advice or official protection - which happens often - the same judge can grant ex officio an order of integral protection, thus regulating different civil issues, such as the custody of the couples’ children, the use of the family home, alimony for the children as well as the access rights of the father. Besides, the same judges can issue a restraining order, for instance forbidding the husband to approach the wife at less than 500 meter for six months. At that stage the instruction could be closed and the case would be heard, either as a so called “fast tract trial”, (should the husband plead guilty) before the same instructing judge or at the higher Criminal Court.

In my own country The Netherlands violence against women has been viewed as an important political issue since the year 2002, when the Dutch government published a policy paper titled ‘*Private Violence – Public Issue*’, which contains over fifty concrete intentions and measures. In 2007 the Netherlands started a large-scale campaign with the slogan ‘Now it’s enough!’ We intend with this to encourage victims, perpetrators and others who are affected to seek support in stopping domestic violence. On the subject of legal measures to combat violence against women, we are making progress. Legislation has been drafted and passed by Parliament on what is considered a revolutionary measure: the preventative home restraining order. If there is a *threat* of domestic violence, this measure enables the mayor to ban the perpetrator - in most cases the male partner - from the home for ten days. These ten days are used to set up a support programme for both the partner banned from the home, the victim, and their children. The legislator thinks that this measure will prove an efficient way of tackling domestic violence at an early stage. And our principal hope is that it will give the police a tool to work in situations where there is a threat of violence, but no proof, in which the woman doesn’t want to make a report. In domestic violence this often happens. In extreme cases, the authorities can arrange for the woman and her children to be taken to a safe house.

Although the legislation is not yet in force, a pilot of six months has taken place and ended at the end of 2007. In this period 570 incidents of violence were reported to the police. In 83 of those cases domestic violence was suspected and a so called “risk-assessment” has taken place. This risk assessment consists of a protocol and a questionnaire which takes a trained assistant public prosecutor within the police about one and a half hours to fill in. In 77 of those “risk-assessments” there was violence against partners, the other 6 cases were about violence of parents against their children. After the risk-assessment in 56 cases a home restraining order was thought necessary. And now comes the amazing part.

Because the preventive home restraining order is not yet in force in the Netherlands, this could only be done on a voluntary basis. Only in 11 of those 56 cases the banning order was refused. In the other cases the – mostly – men agreed to stay away from the house, handed over their home keys, and obeyed the order not to contact the wife and children in this cooling down period of ten days. Also the offered help for all parties was in almost every case accepted. This illustrates the fact that the perpetrator of domestic violence is seldom happy that the situation with their – once – beloved ones had got so out of hand. The new measures do not have the effect that the existing criminal law is not applied. A policy of arrest and

punishment of the perpetrator is still applied when the violence has occurred and the victim is hurt.

Finally, in Holland there is a lot of attention for honour-related incidents of violence. A special programme for it was set up in 2006. It is aimed at, among other things, empowering victims and risk groups. Special training helps welfare workers to recognise honour-related violence and to assist victims of this type of violence. Moreover, the hope is that this will succeed in giving police the chance to investigate and prosecute perpetrators of honour-related crime better and more effectively.

Conclusion

Despite all of these initiatives, violence against women in Europe has not stopped. We still have a lot to learn and plenty more needs to be done. What are the best approaches and methods? There is a pressing need for all European countries to empower women, assist them to escape from violence within the family, and provide resources for advice and practical help. This requires establishing and maintaining woman-centred NGO's to provide assistance and services to victims. Without these, legal action against perpetrators is likely to fail, since women who are intimidated and humiliated will not be able to act as witnesses or to pursue a complaint.

It is my hope that the Council of Europe's campaign only will be a beginning and that it will raise awareness across all 46 European member states that violence against women is a human rights violation. Exchanging experiences across borders and continuing to work with good examples are crucial if we are to achieve our goal of stopping domestic violence. In this conference of IAWJ we as Europeans hope to learn a lot from you, women judges from all parts of the world. All good resources must be mobilised if we are to tackle one of our most challenging democratic problems. It is our individual and collective responsibility to break the silence and take action.

Let us together make a difference.

Thank you.

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The Netherlands.