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### **PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on violence against  
women, its causes and consequences, Yakin Ertürk\***

#### **Addendum**

**15 YEARS OF THE UNITED NATIONS SPECIAL  
RAPPORTEUR  
ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND  
CONSEQUENCES (1994-2009) - A CRITICAL REVIEW\*\***

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\*The report was submitted late in order to reflect the most recent information.

\*\*Owing to its length, the report is circulated as received, in the language of submission only.

## I. INTRODUCTION

1. The establishment of the Special Rapporteur on Violence against Women (SRVAW) mandate and the appointment of an incumbent in 1994 was part of a series of developments that finally accorded explicit recognition to violence against women (VAW) as a human rights concern within the United Nations. Thirteen years after the coming to force of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) - the “Women’s International Bill of Rights” - the expert committee monitoring the convention adopted general Recommendation 19 in 1992, thus filling a major gap in the convention. In 1993, at the Vienna Conference, the international community officially recognized VAW as a human rights violation, and the same year the General Assembly adopted the Declaration on the Elimination of Violence against Women (DEVAW). These developments set the stage for the creation of a special mechanism to monitor VAW worldwide.

2. On 4 March 1994, the Commission on Human Rights (CHR) adopted a resolution for “integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women”, appointing a Special Rapporteur on VAW, including its causes and consequences. E/CN.4/RES/1994/45. Two experts have since held the office of the SRVAW: Radhika Coomaraswamy, a Sri Lankan lawyer, who served three terms of office (three years each), June 1994-July 2003; and Yakin Ertürk, a Turkish sociologist, who will have served two terms by August 2009 (August 2003-August 2009). A new mandate holder is expected to be nominated during the course of 2009. The creation of this mechanism and the scope of its mandate was a hard-won victory for women’s rights movements globally. With the victory came the onerous responsibility upon the

SRVAW for covering a vastly neglected and obstacle-ridden legal terrain - that of developing legal doctrines for distinct forms of gender-based violence faced by women, including those that are cognizant of the multilayered violations of women, to examine communications and make recommendations for eliminating violence as well as its root causes. The SRVAW has fulfilled this daunting role through consultations and cooperation with governments; United Nations bodies/agencies and other special mechanisms; women's groups/non-governmental organizations (NGOs); academicians; and research institutes.

3. This review aims to take stock of the achievements of 15 years of work on the VAW mandate, which has produced an impressive collection of 14 annual reports, 32 country mission reports, 11 communication reports comprising many communications to and from governments, and several other pieces of research. The figures include reports already published, or reports on missions already conducted by 1 December 2008. Given the quantum of work and its significance, a review provides an opportunity to consolidate the main achievements, and the space to reflect upon the gains and the potential for future progress and directions of the mandate. The expansive coverage by the mandate and the complexity and interconnections among the concerns and categories of violence make it difficult to undertake a comprehensive review - and this exercise does not aim to be one. Rather, it is selective in terms of its focus on the substantive achievements of the mandate and the challenges before it.

4. Yakin Ertürk, the current SRVAW, initiated this study, with the objective of reviewing the work of the SRVAW, highlighting the conceptual shifts in the VAW mandate since its inception, and assessing the lessons learned as well as remaining challenges in combating VAW. A further objective is to assess the extent to which such issues as reproductive health and rights, poverty, migration, internally displaced persons (IDPs), women refugees,

trafficking, aging, and adolescent girls have been addressed by the mandate, so as to propose some ideas on how best to integrate those issues into future work within the context of the VAW mandate. It is hoped that this study can also serve as a frame of reference for the next SRVAW, governments, civil society and United Nations agencies in their initiatives to move forward in the struggle against VAW.

5. The study involved a desk review and an analysis of the annual/thematic reports, the country mission reports, the communications sent to governments, and statements from the former and current SRVAWs delivered by a consultant who worked under Ertürk's supervision and guidance, with support from UNFPA and the office of the United Nations High Commissioner for Human Rights (OHCHR). An earlier draft was circulated to a number of experts, including the former SRVAW, who have had sustained engagement with the mandate.

6. This report structures the review into seven parts: Part I introduces the review; Part II provides a general introduction to the mandate and its scope; Part III examines the key areas of VAW covered by the mandate; Part IV discusses tools developed by the mandate to facilitate compliance, implementation and accountability; Part V takes stock of the conceptual advances made by the mandate in relation to the human rights of women; Part VI looks at the challenges and potential that remain to be considered by the mandate in the future; and Part VII is a conclusion. The various parts of this report overlap somewhat, given the interconnections they share. For example, Part IV, on implementation, also discusses issues that arise in Part III in relation to key areas covered by the mandate; and elements of conceptual gains, although independently discussed in Part V, are also partially subsumed in Part III. While some amount of repetition is inevitable due to such overlaps, the structure adopted for this review aims to minimize them, in order to distinguish and

classify the broad achievements of the mandate over the past 15 years and suggest potential areas of attention.

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### **III. KEY AREAS OF FOCUS**

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#### **A. Domestic violence**

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35. In her treatment of domestic violence, Ertürk has ruptured the public/private dichotomy by expanding State accountability beyond private actors for private acts of violence, by calling upon the State to address external pressures that bear upon particular groups because of their status, ethnicity or context, and that exacerbate domestic violence. In this regard, contexts such as stigma-laden and flawed HIV/AIDS policies, occupation, racism, socio-economic marginalization and restrictive immigration policies have been held to constitute the external environments that exacerbate domestic violence. Accordingly, the HIV/AIDS report outlines the State's obligation to counter stigma, VAW and gender inequality in its HIV/AIDS prevention policies to combat the enhanced discrimination and violence that HIV-positive women experience within the family. E/CN.4/2005/72.

36. Similarly, in the case of the Occupied Palestinian Territories (OPT), the SRVAW noted the importance of ensuring State commitment to women's rights through the development of a secular democratic state, increased political representation of women, and enactment of laws on non-discrimination, equality,

sexual assault, domestic violence, honour crimes and the need to end occupation.<sup>41</sup> ...

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### **C. Armed conflict**

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50. Since the adoption of the Rome Statute, the mandate holders have continued to pursue accountability for sexual violence and gender-based crimes in situations of armed conflict, among IDPs, and in relation to peace and reconstruction processes through country missions, bringing out the exacerbated impact of armed conflict when combined with patriarchy, ethnic and racial marginalization, poor status of women, and the absence of gender equality in legislation and State processes. The mission to the OPT evinces the combined impact of occupation and patriarchy on women, bringing to the surface, on the one hand, the gendered impact of restricted movement, house demolitions, detention, injuries and loss of life on women; and on the other, the consequences of heightened pressure and the humiliation of occupation on Palestinian men, in terms of increased control and aggression over women, through domestic violence and honour crimes.<sup>73</sup>

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## **VII. CONCLUSION**

131. The challenge before the Special Rapporteur on Violence against Women has been and will remain immense, knowing that

no matter how much the mandate advances the standards, conceptual understanding and tools for implementation and accountability in relation to VAW, the problem will persist - given how inextricably it is linked to other areas of subordination, disparities and discrimination. The role of the mandate is invaluable as the forum that can make visible hidden violations, lend support to and communicate the voices of the most vulnerable women, and act as a channel to access justice and accountability where national systems of justice are not well developed or when they fail to respond. The unfortunate fact remains that, for the most part, VAW continues to be perpetrated with impunity, access to justice is riddled with obstacles, and accountability remains elusive within the domestic realm. As a special mechanism, the mandate commands expertise, independence, concerted thematic focus, an ability to engage directly through country visits, ongoing accessibility to victims, and an advocacy role in identifying implementation gaps.<sup>220</sup> Thus, the mandate will continue to serve a pivotal role in the development of human rights law with respect to women, and in their protection.

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#### *Notes*

<sup>41</sup>Country mission report on the OPT, E/CN.4/2005/72/Add.4.

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<sup>73</sup>Country mission report on the OPT, E/CN.4/2005/72/Add.4.

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<sup>220</sup>United Nations General Assembly, "In Larger Freedom: Towards Development, Security and Human Rights for All", A/59/2005/Add.3, para. 101.