

officers, the police and the military. Women have been the victims of terrorism and specific targets for, particularly, rape and other sexual assault, during armed conflict. Clear evidence exists suggesting that sexual abuse by soldiers is widespread and that rape, sexual slavery and forced pregnancy are used systematically in some conflicts.¹¹⁸ Most women who are subject to violence during wars take no active part in the conflict, but their abuse, which is very often sexual, is a deliberate tactic to intimidate or undermine the 'enemy' and often aims to inflict deep and lasting damage on entire communities. Frequently, like women in detention, women subjected to violence in conflict situations are abused because they happen to be the wives, mothers, daughters or sisters of the men the authorities cannot capture. These women become substitutes for the men in their families, with soldiers or government agents victimising them to shame their male relatives or to coerce them into surrendering. Many women who are abused during conflicts, moreover, are often from the most marginalised and vulnerable sectors of society, such as indigenous or peasant women or refugee or displaced women.

Conflicts and political and economic insecurity, as well as environmental degradation, have resulted in large refugee flows, with women forming the bulk of the refugee population. Refugee women and girls, particularly those with inadequate documentation or who are single and unaccompanied, are vulnerable to physical and sexual abuse during flight, on arrival in refugee camps and in the country of ultimate settlement.¹¹⁹ Perpetrators of such violence include pirates, border guards, army and resistance units, as well as male refugees. Systematic sexual violence against women and girls, in the context of armed conflict and otherwise, as well as the sexual victimisation of individual women has also proved to be one of the major causes of internal displacement and the decision to seek asylum abroad.

In sum, thus, the focus on the issue of violence against women since the formulation of the Forward-Looking Strategies has shown that women are subjected to three main forms of violence: physical abuse, sexual abuse and psychological abuse. They are at risk of these abuses in all settings and contexts. The major site of violence against women is the family – where physical, sexual and psychological violence is a risk factor for girls and women throughout their

118 Although rape, as well as sexual slavery and forced pregnancy has been always been a feature of war, the conflicts in the former Yugoslavia have produced the most recent evidence women's vulnerability in conflict: see, Amnesty International (1993). 'Bosnia-Herzegovina: Rape and Sexual Abuse by Armed Forces' *AI Index* EUR 63/O1/93; International Human Rights Law Group (1993). *No Justice, No Peace: Accountability for Rape and Gender-Based Violence in the Former Yugoslavia* (Washington DC: Amnesty International, 1994). Bosnia-Herzegovina: "'You Have No Place Here": Abuses in Bosnian Serb-Controlled Areas' (*AI Index*: EUR 63/11/94, p 12); 'Rape and Abuse of Women in the Territory of Former Yugoslavia: Report of the Secretary-General' (UN Doc E/CN4/1994/5 (1993)). Evidence of sexual victimisation of women in the conflicts in the former Yugoslavia coincided with the revelation of systematic abduction of women, described as 'comfort women' who were subsequently forced into prostitution by the Japanese army during the Second World War: David E Sanger, 'Japan Admits It Ran Army Brothels During War' (1992) *New York Times*, 8 July.

119 S Wali, *Female Victims of Sexual Violence: Rape Trauma and its Impact on Resettlement* (World Health Organisation/UN High Commissioner for Refugees, 1990); UNHCR (1993). *The State of the World's Refugees: The Challenge of Protection* (London: Penguin Books), p 70; Executive Committee of the High Commissioner's Programme, *Note on Certain Aspects of Sexual Violence Against Refugee Women*, EC/1993/SCP/CRP.2, 29 April 1993; Africa Watch and Women's Rights Project, 'Seeking Refuge, Finding Terror: The Widespread Rape of Somali Women Refugees in North Eastern Kenya' (New York: *Human Rights Watch*, 1993).

lives and even from before birth. The community not only constitutes a site of violence against women, but also supports aspects of the family which make it the major site of victimisation for women. So also, the State constitutes a site of violence against women when, for example, it condones or tolerates the rape and torture of women in detention. Like the community, the State also provides the setting and justification for violence against women in the other sites of violence. The final site of violence against women is during international and civil war and general societal unrest. Again, this violence can take various forms and may or may not be related to the structure of a State.

(c) Violence as an issue of gender

Focus on the issue of violence against women has not only revealed the multifarious manifestations and settings of such violence, but has also suggested that although both women and men are at risk of personal victimisation, when women suffer such victimisation they usually are not random victims of violence, but that this violence frequently has a gender dimension. A number of aspects of violence suggest this analysis.

First, in general, although there are exceptions, irrespective of whether the victim is female or male, predominantly those who perpetrate violence are male. Second, the experience of violence for women and men is usually distinct, with women suffering different harms from men, these harms being determined by the sex of the victim. Women, for example, irrespective of setting or context, are at much greater risk of sexual violence than men. Third, those who perpetrate violent acts, particularly against others, are frequently motivated by factors concerned with gender, often the need to assert masculinity or enforce male power. Thus, for example, very often, but not exclusively, family violence is perpetrated by male members of the family who use humiliation, threats and/or force to maintain power and control over the female members of the household. Fourth, violence against women is very often associated with individual and societal conceptions of the distinct roles of women and men. Finally, the vulnerability of women to violence is integrally linked to the social, economic and political inequalities women experience as part of their daily lives, while, at the same time, violence and fear of violence have a symbolic impact and reinforces women's inequality of status in relation to men and deprives them of their ability to achieve ultimate equality.

Identification of the manifestations and sites of violence against women and the analysis of this violence as gendered provide a definitional context within which strategies to eliminate this problem can be formulated. The multifaceted nature of the problem clearly suggests that different strategies will be required for different forms and settings of violence against women. The gender analysis of the issue, however, indicates that efforts to address this violence must incorporate certain broad based strategic objectives concerned specifically with gender. These strategic objectives include de-legitimisation of male violence generally, confrontation of conceptions of gender roles and traditional values associated with such roles and transformation of the social, political and economic structures which entrench male privilege and maintain the subordination of women. These objectives must be considered and pursued in the context of overall efforts to achieve equality for women, which must, in turn, be pursued in the context of the achievement of universal human rights for all.

Until very recently, strategies at international, regional and national level employed in the context of the problem of violence against women have not incorporated such broad based strategic objectives, but have been narrow, concentrating on different aspects of violence against women.

In the following section the work of the United Nations concerning violence against women is described. It will be clear that until the beginning of this decade this work has concentrated on violence against women in the family, but in response to growing claims by women for equality in all spheres has broadened to address other forms of violence against women.

The United Nations and Violence Against Women

(a) The United Nations Decade for Women

The issue of violence against women did not feature as part of the agenda of the First United Nations Conference on Women at Mexico City in 1975. However, the result of the Conference, the World Plan of Action for the Implementation of the Objectives of the International Women's Year drew attention to the need for the family to ensure the dignity, equality and security of each of its members and to be provided with assistance in the solution of conflicts arising among its members.¹²⁰ Similarly, the Second United Nations Conference on Women at Copenhagen had few sessions focused on violence. Nevertheless, the Programme of Action stated that 'legislation should also be enacted and implemented in order to prevent domestic and sexual violence against women',¹²¹ and in its Fifth Resolution, the Conference expressed the view that violence in the family was a serious social and inter-generational problem.

Following the Copenhagen Conference the issue of violence against women began to emerge as an international concern. The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1980, in its Resolution 9, requested that at future Congresses and preparatory meetings for such congresses, as well as in the work of the Committee on Crime Prevention and Control, time should be allotted to the study of women as offenders and victims.¹²² In 1982, on the recommendation of the Commission on the Status of Women at its 29th session, the Economic and Social Council adopted resolution 1982/22 in which it noted the concern expressed by the international community at the blatant and inhuman abuses of women and children, such as battery, violence in the family, rape and the resultant exploitation and violation of human dignity and indicated that the abuse of women and children constituted an intolerable offence to the dignity of the human being, requiring immediate and energetic action. Again in 1982, the seventh session of the Committee on Crime Prevention and Control identified violence as one of the most important issues in crime prevention and noted that consideration should be given to the victims of traditional crime, especially those involving violence in society at large and particularly within the family. It made clear that certain types of victimisation, particularly violence against female family members, were difficult to prevent or control, in view of cultural values, legal prescription and the response of criminal justice.¹²³

120 Report of the World Conference of the International Women's Year, Mexico City, 19–22 July 1975 (*UN Sales* No E.76.IV.1) Chapter II, section A, paras 124 and 131.

121 Report of the World Conference of the United Nations 'Decade for Women: Equality, Development and Peace', Copenhagen, 14–30 July 1980 (*United Nations Sales* No E.80.IV.3) Chapter I, section A, para 141(f).

122 Sixth United Nations Congress on the 'Prevention of Crime and the Treatment of Offenders', Caracas, Venezuela, 25–25 September 1980: Report prepared by the Secretariat (*United Nations Sales* No E.81.IV.4) Chapter I, section B.

123 Report of the Committee on Crime Prevention and Control on its Seventh Session (E/CN5/1983/2) Chapter IV, section 8, paras 106 and 138.

It was at the 1985 Nairobi Conference, however, that violence against women truly emerged as a serious international concern and, many national, regional and international bodies began to take up the issue. The Nairobi Forward-Looking Strategies for the Advancement of Women¹²⁴ linked the promotion and maintenance of peace to the eradication of violence against women in both the public and private spheres. Chapter III of the Strategies, concerning peace, declared that violence against women existed in various forms in everyday life in all societies and was a major obstacle to the achievement of peace and the other objectives of the United Nations Decade for Women and that women victims of violence should be given particular attention and comprehensive assistance. Paragraph 258 went on to recommend the establishment of national machinery to deal with the question of violence against women within the family and society; the elaboration of preventive policies; and the adoption of legal measures to prevent violence and to assist women victims. Special attention was also paid in Chapter III to women in areas of armed conflict, with States being urged to apply the general framework of international humanitarian law for the specific benefit of women and children. The strategies identified a number of areas of special concern, including 'abused women', 'women victims of trafficking and involuntary prostitution' and 'women in detention and subject to penal law' where it was recommended that Member States should adopt specific measures. In order to counter abuse, governments were urged to affirm the dignity of women, intensify efforts to establish or strengthen forms of assistance to victims of violence through the provision of shelter, support, legal and other services, increase public awareness of violence against women as a societal problem, establish policies and legislative measures to ascertain the causes of violence and to prevent and eliminate its occurrence, in particular by suppressing degrading images and encourage the development of educational and re-educational measures for offenders.

Trafficking and forced prostitution were to be countered by the implementation of the United Nations 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, as well as by improved international strategies, including international co-ordination of police effort and measures to prevent prostitution by providing educational, employment and educational opportunities for women and children. Women deprived of freedom were acknowledged to be exposed to physical and sexual violence and moral harassments and States were directed to take into account the principles of the recommendations of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.¹²⁵

(b) Post the Nairobi Forward-Looking Strategies

The Nairobi Forward-Looking Strategies had made clear that violence against women existed in various forms in all societies. However, the bulk of the text of the Strategies related to violence against women in the home. In consequence, predominantly, the work of the United Nations since the formulation of the Strategies has related to violence against women in the home.

The Seventh Congress on the Prevention of Crime and Treatment of Offenders held shortly after the Nairobi Conference identified violence against women in

124 Report of the World Conference to 'Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace', Nairobi, 15–26 July 1985 (*United Nations Sales* No E.85.IV.10).

125 *United Nations Sales* No E.81.IV.4

the domestic sphere as a major site of crime against women,¹²⁶ while United Nations General Assembly Resolution 40/36 of 29 November 1985 recognised the importance of violence in the home and advocated 'concerted and multidisciplinary action' both within and outside the United Nations system to deal with the problem, urging governments to adopt specific criminal legislation to obtain an equitable and human response from judicial systems to the victimisation of women. An Expert Group Meeting on Violence in the Family, with Special Emphasis on its Effects on Women,¹²⁷ convened in December 1986, made recommendations for concrete and immediate measures to confront violence against women in the home and long-term preventative measures aimed at improving the status of women and at ensuring a more accessible, sensitive, effective and fair response by civil and criminal justice systems to the victimisation of women in the family.

The Expert Group Meeting was followed by a special study on violence against women in the family, which revealed, alarmingly, that women irrespective of nationality, colour, class, religion or culture are at significant risk of physical, psychological and sexual violence in the home from male relatives, most frequently their husbands or partners.¹²⁸ Violence against women in the family was also part of the agenda of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana in 1990, as the result of which the General Assembly adopted resolution 45/114 in which it urged Member States to develop and implement policies, measures and strategies, within and outside the criminal justice system to respond to the problem of domestic violence. These policies were to include appropriate preventive measures, as well as treatment and effective assistance for victims of domestic violence. Resolution 45/114 also called for the preparation of a manual on domestic violence for practitioners, in response to which *Strategies for Confronting Domestic Violence: A Resource Manual* was published at the time of the World Conference on Human Rights in 1993. It is clear that the criminal justice organs of the United Nations will continue to pay close attention to the issue of domestic violence and other forms of violence against women. Resolution 3/1 of the Third Session of the Commission on Crime Prevention and Control condemns violence against women in all its forms, requests the Secretary-General to report at the third session of the Commission on the activities of United Nations bodies and institutions in this context and asks the Ninth United Nations Congress on the Prevention of Crime and Treatment of Offenders to be held in 1995 to further consider the issue.

Although the emphasis of the work of the United Nations in the field of violence against women has, thus, been with respect to violence in the domestic sphere, violence against women in other contexts has also been acknowledged. The Economic and Social Council has adopted, on the recommendation of the Commission on the Status of Women, several resolutions which relate to violence against detained women which is specific to their sex and has requested the Secretary-General to compile reports on this subject. The General Assembly has

126 Seventh United Nations Congress on the 'Prevention of Crime and the Treatment of Offenders', Milan, 25 August–6 September 1985: prepared by the Secretariat (*United Nations Sales No E.86.IV.1*) Chapter IV, section C, paras 230, 232 and 233.

127 Expert Group Meeting on 'Violence in the Family with Special Emphasis on its Effect on Women', Vienna, 8–12 December 1986.

128 United Nations (1989) 'Violence Against Women in the Family' (*United Nations Sales No E.89.IV.5*).

adopted two resolutions concerning violence against women migrant workers, while the Commission¹²⁹ and Commission Working Group on Slavery, the Subcommission on Human Rights and the Working Group on Traditional Practices Affecting the Health of Women and Children¹³⁰ have all considered the issue of female genital mutilation. Forced prostitution and trafficking in women has been the concern of the Working Group on Contemporary Forms of Slavery, which in 1991 elaborated a Programme of Action for the Prevention of Traffic in Persons and the Exploitation of the Prostitution of Women, which has been endorsed by the Subcommission and the Commission on Human Rights.¹³¹ So also, the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography has devoted special attention, within his mandate, to the particular vulnerabilities of girl children.¹³²

Specialised agencies of the United Nations, including the United Nations High Commission for Refugees (UNHCR) and United Nations UNIFEM, part of the United Nations Development Programme, have also addressed the question of violence against women. The UNHCR Executive Committee has agreed a number of resolutions concerning violence against refugee women¹³³ and in 1990 adopted a Policy on Refugee Women. General guidelines have been developed by UNHCR to help organisations working with refugees to ensure that women are protected against manipulation, exploitation and sexual and physical abuse and that they are able to benefit from protection and assistance programmes without discrimination,¹³⁴ while specific guidelines concerning the prevention of and response to sexual violence among refugees have just been completed. UNIFEM has linked the various forms of violence against women to development.¹³⁵

Violence against women has, thus, attracted serious attention within the United Nations since the formulation of the Forward-Looking Strategies. However, up until the beginning of this decade, the approach taken has been, while acknowledging other aspects of the problem, to prioritise violence against women in the family as a matter of concern. During this decade, however, a combination of factors has changed this approach. Violence against women in

129 Resolution 1982/15 of 7 September 1982. The Subcommission appointed Mrs Halima Warzazi as the special rapporteur on traditional practices affecting the health of women and children. Her final report is to be found in UN Doc E/CN.4/Sub.2/1991/6 of 5 July 1991. In 1991, further, the Subcommission organised a seminar on traditional practices which called on States to draft legislation prohibiting female genital mutilation and create, in Member States, government bodies to implement official policy against the practice: UN Doc E/CN.4/Sub.2/1991/48 at 29.

130 Report of the Working Group on 'Traditional Practices Affecting the Health of Women and Children', UN Doc E/CN.4/1986/42 of 4 February 1986.

131 Report of the Working Group on 'Contemporary Forms of Slavery' on its Sixteenth Session, UN Doc E/CN.4/Sub.2/1991/41 of 19 August 1991. See also Resolution 3/2 of the Commission on crime prevention and criminal justice which concerns international traffic in minors.

132 United Nations Special Rapporteur on the 'Sale of Children, Child Prostitution and Child Pornography, Preliminary Report on the Sale of Children', UN Doc E/CN.4/1991/51.

133 United Nations High Commissioner for Refugees, Executive Committee Conclusion, No 68 (XLIII) 1992; No 73 (XLIV) 1993.

134 'Guidelines on the Protection of Refugee Women' (Geneva: Office of the United Nations High Commissioner for Refugees, 1991).

135 Roxanna Carillo, *Battered Dreams: Violence Against Women as an Obstacle to Development* (New York: UNIFEM, 1992).

the family is now very clearly viewed as only one, albeit a large, part of the endemic problem of violence against women. The multifarious manifestations of this violence are subject to common analysis and attempts are being made to coordinate the work of the UN and its specialised agencies with respect to the problem.

(c) Widening the issue

The first factor contributing to this shift of approach was the emergence of violence against women as a priority for the Committee on the Elimination of Discrimination against Women, the treaty body established to monitor the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

The Convention on the Elimination of All Forms of Discrimination Against Women was elaborated by the Commission on the Status of Women prior to the Copenhagen Mid-decade Conference in 1980. The terms of treaty bind States Parties to condemn discrimination against women in all its forms and to take immediate and appropriate steps, in public and private life, to eliminate this discrimination. While the obligation to eliminate discrimination against women imposed by the treaty is broad, encompassing 'discrimination in all its forms', Part II of the Convention addresses particular areas of discrimination. At no point does the Convention specifically mention violence against women, although Article 6 obliges States Parties to take 'all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women'.

The substantive work of the Committee on the Elimination of Discrimination against Women coincided with the revelation of the endemic nature of violence against women and the identification of this violence as related to the inequality of women with men. The absence of violence against women from the terms of the Convention encouraged States Parties to regard the issue, if they considered it at all, as outside their international treaty obligations. The Committee concerned, first, that States Parties frequently did not include information with respect to the problem in their treaty reports, thereby indicating that violence against women was not regarded as an issue of inequality and second, that States Parties might justify inaction because of the silence of the Convention on the matter, adopted, at its Eighth Session in 1989, General Recommendation 12. Recommendation 12 suggested that Articles 2, 5, 11, 12 and 16 required States Parties to act to protect women against violence of any kind in the family, the workplace or in any other area of social life and that States Parties report on legislative and other measures which have been taken to address violence against women, to protect the victims by providing support services and to compile statistics on incidence and victims. The following year, the Committee adopted General Recommendation 14 concerned with female circumcision and other traditional practices harmful to the health of women. This recommendation suggested various strategies, predominantly of an educational nature, that States Parties might take to eradicate, specifically, female circumcision.

General Recommendations 12 and 14 were tentative steps by the Committee to relate violence against women to discrimination and its elimination. In 1992, at its Eleventh Session, the Committee formulated the far more comprehensive General Recommendation 19 which specifically categorised gender-based violence, which it defined as violence that is directed against a women because she is a women or that affects women disproportionately, as a form of discrimination which supports other forms of discrimination and, accordingly, a breach of the general obligations of the Convention. Unlike General

Recommendations 12 and 14, General Recommendation 19 firmly places gender-based violence within the rubric of human rights and fundamental freedoms and makes clear that the Convention obliges States Parties to eliminate violence perpetrated by public authorities and by private persons, organisations or enterprises. The General Recommendation, further, elaborates programmatic measures States Parties should employ to address various manifestations of gender-based violence.

Prioritisation by the committee of the issue of gender-based violence, particularly in General Recommendation 19, was informed by the second factor which led to the broadening of the issue of violence against women within the United Nations: the categorisation of violence against women, because of its scale and gender dimension, as an issue of human rights. To concretise this categorisation and because international and regional human rights instruments and mechanisms, although implicitly concerned with gender-based violence, did not explicitly relate to the issue and had, in general terms, not been interpreted as concerned with it, the Commission on the Status of Women recommended the formulation of an international instrument on violence against women.¹³⁶

The Declaration on the Elimination of Violence Against Women, the result of the Commission's recommendation, locates violence against women within the framework of violation of human rights obligations, inequality and discrimination¹³⁷ and sets out strategies that Member States and the organs and specialised agencies of the United Nations should employ to eliminate its occurrence. The Declaration's adoption was facilitated by the recognition by the World Conference on Human Rights, six months earlier, of the egregious nature of violence against women and the human rights dimensions of the problem¹³⁸ Further analysis the issue within this framework occurred in October 1993 at the United Nations Expert Group Meeting on measures to eradicate violence against women where recommendations were made with respect to human rights, law and justice, development, health and education and peace, peace-keeping, emergencies and conflict. The final step towards the broadening of the issue within the United Nations occurred in March 1994, when the United Nations Commission on Human Rights condemned all acts of gender-based violence against women and appointed a Special Rapporteur on violence against women to seek and receive information on violence against women, its causes and consequences; recommend measures at the national regional and international levels to eliminate violence against women; work with other mechanisms of the Commission on Human Rights and the Commission on the Status of Women and to report to the next session of the Commission on Human Rights.

136 ECOSOC Res 1991/18. See the report of the Expert Group Meeting on Violence Against Women, Vienna, 11–15 November 1991, EGM/VAW/1991/1.

137 Hilary Charlesworth disputes this, arguing that apart from a pre-ambular statement, the Declaration does not clearly present violence against women as a general human rights concern: it appears as a discrete and special issue rather than an abuse of, for example, the right to life or equality'. Hilary Charlesworth, 'What are Women's International Human Rights' in Rebecca Cook (ed), *The Human Rights of Women: National and International Perspectives* (Philadelphia: University of Pennsylvania Press, 1994), p 58 esp, p 73.

138 Article 18 of the Vienna Declaration; Article 38 of the Programme of Action. See also specific reference to violence against girl children in Article 21 of the Vienna Declaration and Articles 48 and 49 of the Programme of Action.

Existing strategies to confront violence against women

The previous section examined the development of policy within the United Nations with respect to violence against women, noting that the issue was initially viewed narrowly, with work concentrated on violence against women in the family. Coinciding with the identification of violence against women as gender-based, policy has broadened and the problem is considered as one of human rights and a dimension of discrimination between women and men.

The following section reviews strategies which have been introduced at international, regional and national level to address the issue. As will be seen, at all levels strategies fall into three broad categories: raising awareness of various forms of violence against women, advocating legal change and providing services for victims.

(a) International

As we have seen in the previous section, action at international level with respect to violence against women has incorporated the establishment of policy and the formulation of recommendations for Member States and United Nations activity with respect to the problem. Comprehensive recommendations relating to violence against women in the family, incorporating very specific suggestions for legal reform, with a concentration on a criminal justice approach to domestic violence, the role and training of the police, prosecutors and the health sector, social and resource support for victims and the compilation of research and data were made by the 1986 Expert Group on Violence in the Family, with Special Emphasis on its Effects on Women. Important recommendations were also made by the Group with regard to public awareness of violence against women, by education at all levels and in all forms and the elimination of images in education and the media entrenching the subordination and violation of women. Similar recommendations were made in the General Recommendations of the Committee on the Elimination of Discrimination against Women with regard to family violence. As has been noted, General Recommendation 19 was drawn more widely than the two earlier Recommendations on violence against women and thus incorporated suggestions relating to trafficking and sexual exploitation, sexual harassment, female circumcision and violence against rural women and domestic workers.

Strategies elaborated in the 1993 Declaration on the Elimination of Violence Against Women incorporated recommendations included in existing United Nations documents. Thus, recalling Paragraph 258 of the Forward-Looking Strategies, States are urged to consider the development of national plans of action to promote the protection of women against any form of violence and, if appropriate, co-operate with non-governmental organisations in this regard, entrench appropriate legal provisions, introduce training for relevant sectors, address issues of education and the portrayal of images of women, promote research and adopt measures directed to the elimination of violence against women who are especially vulnerable to violence. Unusually, however, the Declaration specifically addresses the organs and specialised agencies of the United Nations. They are requested to promote awareness of the issue and encourage co-ordination within the organisation with respect to efforts to eliminate gender-based violence.

It is the clear categorisation by the Declaration of Gender-Based Violence Against Women as both an issue of human rights and discrimination, however, which establishes the framework for the development of future strategies at international level. Within the Declaration itself, States are urged to condemn

violence against women and refrain from invoking custom, tradition or religion to avoid this obligation, to ratify the Convention on the Elimination of All Forms of Discrimination Against Women without reservation or, if already State Party, remove any reservation to its terms as a means of eliminating violence against women. States are also urged to refrain from engaging in violence against women and exercise due diligence to prevent, investigate and punish acts of violence against women, whether perpetrated in the public or private sphere. This language not only sets strategic objectives for Member States, but encourages the interpretation of existing international standards and methods of implementation so as to address the issue of violence against women.

Action at international level has not been confined to the formulation of policy and recommendations, but has included the elaboration of international legislation. While much of this legislation is gender-neutral, applying equally to women and men, and does not relate specifically to violence against women, certain forms of gender-based violence are accorded special attention. Trafficking in women and the exploitation of prostitution are the subjects of a specialised treaty, the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others¹³⁹ and are addressed by Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women.

Most other forms of violence against women are addressed non-specifically and in gender neutral terms. For example, Articles 19 and 24(3) of the Convention on the Rights of the Child, although applying to both girl and boy children, create obligations on States Parties with respect to violence against girl children and traditional practices. Violence against women by State officials, both generally and where they are in detention, is prohibited by general international human rights norms including Articles 7 and 10 of the International Covenant on Civil and Political Rights 1966 and Articles 1 and 16 of the International Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment 1984. Exploitation of and violence against female migrant workers is prohibited by several International Labour Organisation conventions, including the Migration for Employment Convention (Revised) of 1949 and the Migrant Workers (Supplementary Provisions) Convention 1975, as well as the United Nations Convention on the Protection of Migrant Workers and Their Families 1990, which has yet to enter into force.

Violence against women in situations of armed conflict¹⁴⁰ is addressed within the framework of international human rights and humanitarian law. Torture, cruel, inhuman or degrading punishment, slavery and servitude, wherever and whenever they occur, are prohibited by international human rights law.¹⁴¹ In time of war, these obligations are reinforced by international humanitarian law standards, contained predominantly in the four Geneva Conventions 1949 and their two additional Protocols of 1977. Protection of women combatants and civilians is accorded within the general framework of humanitarian law,

139 GA Res 317 (IV) 2 December 1949, UN Doc A/1251 at 33–35 (1949).

140 Condemned in the Final Declaration of the International Conference of War Victims, held at Geneva from 30 August–1 September 1993, Chapter 1, paras 1 and 3.

141 Articles 7, 8 and 10 of the International Convention on Civil and Political Rights and Convention Against Torture and other Cruel, Inhuman or Degrading Punishment.

available on the basis of non-discrimination,¹⁴² and by a number of provisions which are gender-specific.

Specific protections for female combatants were included in the 1929 Geneva Convention relating to the Treatment of Prisoners of War, with Article 3 of the Convention demanding that 'women shall be treated with all consideration due to their sex' and Article 4 allowing for differential treatment of women prisoners of war. The Third Geneva Convention of 1949 requires female supervision for and separate accommodation and sanitary conveniences from those of male prisoners to be provided for female prisoners of war,¹⁴³ while punishments in excess of those applicable to male prisoners of war may not be imposed on women prisoners.¹⁴⁴ Additional special protection is provided in Article 76(2) of Protocol I to prisoners of war who are pregnant or mothers of dependent infants whose cases are to be considered with 'utmost priority' with the object of early release and repatriation.

The Fourth Geneva Convention and the two Additional Protocols specifically prohibit any attack upon the 'honour' of non-combatant women, who are to be 'especially protected ... in particular against rape, enforced prostitution, or any form of indecent assault',¹⁴⁵ issues addressed in the 1974 Declaration on the Protection of Women and Children in Armed Conflict¹⁴⁶ which requires States to make all efforts to spare women from the ravages of war, including torture and degrading treatment and violence.¹⁴⁷

Violations of international humanitarian law engage the international responsibility of the State. The Fourth Geneva Convention in Article 146 and 147 and its First Protocol in Articles 85 to 90 characterise certain violations in international, but not civil, war as 'grave breaches'. Characterisation of a violation as a grave breach not only imposes individual criminal liability on those who commit such a breach, but imposes responsibility on contracting parties to enact legislation to provide effective penal sanction for those ordering or committing grave breaches, as well as an obligation to search for such persons, irrespective of their nationality, and to bring them before the courts.

The definition of a grave breach, although encompassing wilful killing, torture or inhuman treatment, unlawful confinement, wilful causing of great suffering or serious injury to body or health, does not specifically incorporate gender-based violations. Thus, although it is highly likely that gender specific abuses, particularly sexual assault, during international conflicts, fall within the concept of grave breach, such a conclusion remains a matter of legal interpretation. It is unclear whether the United Nations considers that rape in international war amounts to a grave breach. Certainly, the United Nations Human Rights Commission has condemned, in the context of the former Yugoslavia the 'abhorrent practice of rape and abuse of women and children ... which, in the

142 The four Geneva Conventions and their Protocols all contain an identical prohibition on 'any adverse distinction founded on sex': Article 12, Geneva I; Article 12, Geneva II; Article 16, Geneva III, which also provides in Article 14 that women shall in all cases benefit by treatment as favourable as that granted to men; Article 27, Geneva IV; Article 75, Protocol I and Article 4, Protocol IV.

143 Articles 14(2), 29(2), 97 and 108 of Geneva III and Articles 75(5) and 5(2)(a), protocol I.

144 Geneva III, Article 88(3).

145 Article 27(2) Geneva IV; Articles 75 and 76 of Protocol I and Article 4, Protocol II.

146 GA Res 3318 (XXIX) 14 December 1974.

147 Paragraph 4.