

## **Good Laws are not Enough. Experiences from Austria in Developing a Comprehensive Intervention System to Prevent Violence against Women and support Survivors**

by Rosa Logar

First I would like to thank the OSCE, for inviting me to this conference on Violence against Women. I also thank the host country Tajikistan and all organizers involved.

The efforts of the OSCE to address the problem of violence against women and to assist participating States in developing programmes, activities and legislative initiatives (OSCE 2004:44c, 2007) are very important. As a representative of WAVE, a European Network of women's NGOs, appreciate the inclusion of women's NGOs in the activities of the OSCE. This inclusion contributes immensely to the empowerment of women's organisations and I hope that our collaboration to end violence against women and their children will continue in the future.

### **1. Introduction**

Violence against women, in all its forms, continues to be a massive problem in Europe. According to prevalence studies in this field, approximately 20% to 25% of all women have suffered physical violence, and more than 10%, sexual violence, during adult life. If all forms of violence against women are taken into account, around 45% of women have experienced violence (Council of Europe 2006:7f). In situations and as a consequence of war and armed conflict women suffer from increased violence (SEESAC-South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2007).

Women and girls are disproportionately often affected by violence in the family: statistics of police interventions in Vienna show that more than 90% of victims of domestic violence are female, while a majority of abusers who commit acts of violence (i.e., more than 90%) are male family members, primarily husbands or intimate partners.<sup>1</sup> Thus domestic violence against women is a form of gender-based violence, as "violence that is directed against a woman because she is a woman or violence that affects women disproportionately" (United Nations 1992:art 6).

The new women's movement against violence emerging in the 1970s in Western Europe was among the first groups of society to declare that violence against women is not a private matter but a public and political problem. In 1993 the World Conference on Human Rights in Vienna recognised violence against women as a human rights violation and stressed *'the importance of working towards the elimination of violence against women in public and private life, the elimination of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism'* (United Nations 1993:art 38).

The efforts of the women's movements in the 1980s and 1990s to demand accountability and protection for women survivors<sup>2</sup> of violence by the legal system were, and still are, efforts to realise women's human rights and efforts to strengthen democracy and the rule of law.

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<sup>1</sup> Statistics by the Domestic Abuse Intervention Centre Vienna, 2007; [www.interventionsstelle-wien.at](http://www.interventionsstelle-wien.at)

<sup>2</sup> I mainly use the term survivor, in order to recognize that women experiencing violence are not passive victims but actively trying to protect themselves and their children and to resist; in the context of legal measures I also use the term victim to recognise that survivors have suffered from injustice committed against them, that they have the right to be protected from violence and that they are entitled to help and compensation.

A society that gives women no, or little, chance to leave a violent husband and live a life without fear is not a democratic society. A law enforcement agency women are afraid to turn to, for fear of sexual harassment, collaboration with the violent husband or simply because of a lack of response and support, is not a democratic institution operating on the basis of laws. A criminal justice system that does not sanction violence against women denies justice to more than half of its citizens. Thus the fight for women's rights to be protected from violence is also a fight for democracy and human rights for all citizens.

International treaties and resolutions clearly determine the responsibility of states to prevent violence against women. The CEDAW General Recommendation number 19 on Violence against Women states that '*... Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation*' (United Nations 1992: art 9).

When feminists of the second women's movement put the problem of violence against women on the agenda in the 1960s, legal reform was not the first priority. The police and the justice system were seen as part of the problem rather than part of the solution, and thus the establishment of safe places and support for women and their children in the form of women's shelters, hotlines and crisis centres were the first response of the women's movement in Europe. Later women's NGOs have also been pioneers regarding efforts to provide better legal protection from violence and have contributed to major legal reforms in many European countries (Humpherys/Carter 2006).

In 1972 the first women's shelter was opened in London and was quickly followed by shelters in all Western European countries. In the former Soviet Union countries violence against women did not exist officially, the position of the communist party being that the revolution of the working people had also freed all women from oppression. After the collapse of the Soviet Union and the communist regimes (in Ex-Yugoslavia already some years earlier) women were able to form organisations and started to provide services to survivors. The first women's shelter was opened in 1992 in Zagreb, and numerous other initiatives followed. While women's organisations in the West were able to get funding for services from the state and sometimes even to form fruitful partnerships between women's NGOs and state agencies, despite difficulties and relapses, their sisters in the East have had many more difficulties to provide services for survivors. State funding is rare and insufficient and many women's organisations rely on foreign donors (Logar 2008).

There are still not enough support services for women and their children in Europe, and every day women seeking help in shelters have to be turned away (Council of Europe 2007). Also the quality of services is insufficient, with many shelters not being able to install effective safety devices or to provide adequate support to the women and their children due to lack of funding.

Women's NGOs not only lack funding but also recognition and political support, despite the fact that all countries have committed themselves to '*recognize the important role of the women's movement and non-governmental organizations worldwide in raising awareness and alleviating the problem of violence against women*' (United Nations 1993:4.o). Sometimes a lack of democracy threatens the existence and work of women's NGOs and they are excluded and marginalised. Feminist organisations fighting for the equality of women and men, which should be a goal supported by everybody in a democratic country, are discredited, discriminated against and sometimes even persecuted. These are serious obstacles in reaching the goal of eliminating violence against women and guaranteeing human rights, since there is evidence that states where many women's NGOs are active have taken more effective steps to counteract violence against women than states with no or few women's initiatives (Johnson/Brunell 2006).

WAVE appreciates, that the support of human rights organisations is an important focus of the work of the OSCE and the present Chair states in his programme that '*Finland stresses the importance of the freedom of expression, assembly and association as fundamental freedoms that contribute to the fulfilment of other human rights. The activities of human rights defenders and national human rights institutions are closely connected to the pursuit of these freedoms in OSCE participating States.*

*Finland will seek to increase support for the important work of human rights defenders also within OSCE* (OSCE 2008).

## **2. Good practice in exercising due diligence to prevent violence and protect victims**

Through international treaties governments have committed themselves to taking effective actions to prevent violence against women and protect victims. The CEDAW General Recommendation number 19 on Violence against Women stipulates that *'States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia: ... (i) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including inter alia violence and abuse in the family, sexual assault and sexual harassment in the workplace; (ii) Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women; (iii) Protective measures, including refuges, counselling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence'* (United Nations 1992:t).

The goal to eliminate all forms of violence against women cannot be reached through criminal law measures alone, since violence against women is *'a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement'* (United Nations 1996, p 75), and the liberation from such dominance can only be reached by empowering women in several ways – economically, socially, politically and psychologically. Good laws are important but not enough if women have no access to justice. A protection order will only help women who have money to support their children and themselves after the abusive husband has had to leave the house. The right to get a divorce is an important step for survivors to separate from abusive husbands, but if they cannot move to a dwelling of their own and have to continue living together with their abusive ex-husbands, as unfortunately still is the case in Eastern European countries (Council of Europe 2007:28), their human right to live free of violence is not granted.

Based on 30 years of experience in working with and providing services for women survivors of violence and based on research and literature, I will argue that we need a comprehensive system of legal measures, including the right to information and adequate services for survivors, in order to be able to tackle the problem effectively. I will identify standards of good practice and use Austria as a case study to give examples and to review the extent to which good practice is realised.

### **2.1 Standards for providing adequate support to survivors**

Violence against women is a dangerous and highly complex problem. Every day women and sometimes also children are murdered and often these homicides are not committed by strangers, but by husbands/fathers or other family members. Women experiencing domestic violence are especially endangered when they try to leave the violent partner – almost all homicides are committed during the period of separation, and the deeds often are explained on the grounds of patriarchal norms such as the right to possess women or to punish them for leaving or “dishonouring” the husband.

General services like social services or homeless shelters do not suffice to meet the needs of survivors. What they need is a range of specialised services, from helplines and safe accommodation to middle and long-term support in order to recover from the traumatic experiences.

Survivors rarely turn to the police or the justice system first, especially if the abuser is a family member, and it is often only with the support of a women's shelter or women's crisis centre that they dare to report the violent incident to the police or to apply for a protective order at the court. Thus support services are a prerequisite that enables women to turn to the justice system.

Women survivors of violence often do not know their rights or where to get help. Thus easy access to information and immediate crisis counselling are important measures. In many countries the telephone has proven to be a good instrument, among others, to reach women survivors of violence. This requires that at least one national helpline exists, operating 24 hours free of charge. More women's shelters as well as counselling/crisis centres in all regions are needed to provide support to survivors and accompany them through legal proceedings. Proactive and free of charge support should also be provided to victims after police interventions and when a crime has been committed against them. Proactive means that the women's service is notified by the police and then contacts the survivors and offers support.

Regarding quantitative standards for services the following recommendations have been developed:

- every country should have least one national women's phone hotline where all victims of violence may get assistance by phone around the clock and free of cost and where they may be referred to other service providers; this number should be widely known and distributed through regular information and awareness campaigns.
- sufficient number of women's shelters, as a minimum standard there should be one family place<sup>3</sup> for every 10 000 inhabitants.
- one women's advocacy and counselling centre for every 150 000 population, which provides crisis intervention as well as long-term support to victims of all forms of violence or to special groups (i.e., specialised services for immigrant victims of violence, for victims of trafficking in women or for women who have suffered sexual harassment at the work place)
- one rape crisis centre for every 200 000 women
- outreach services to victims in rural areas
- one intervention centre per district/province that provides proactive support and advocacy to women victims after violence has been reported to the police or other agencies, and also supports them in legal proceedings
- all services for women victims of violence should also provide adequate support to the women's children and should be free of charge.

Quality guidelines and principles for women's services have been developed to guarantee that women receive adequate and empowering support and do not experience further human rights violations through bad practice of services (see WAVE 2004, Women's Aid England 2007). Regarding shelters women's organisations have shown that it is not enough to provide just a roof over the head, but that it is necessary to offer comprehensive support based on the individual needs of women and children. Empowering support is realised through several principles, such as the principle of women helping women. Women who have experienced violence have been shown and told that women are not worth anything and that they are unable to exist on their own. Women's shelters are models where women can experience that women are able to lead a life independent of husband or family and where women can discover and develop their strengths. Women's shelters are not only staffed by women but also run by women; a shelter where women do the work but men make the decisions would not be an empowering model.

Other important principles are that women have the right to self-determination and autonomy and that their decisions are respected. In women's shelters rules and norms to manage life have to be carefully balanced and it has to be avoided that the power of the husband is replaced by the power of the organisation. Women must have the right to take part in decision making regarding their life in the shelter. Safety of women and children is of central importance in women's services and should always have priority. All information regarding survivors has to be handled with utmost confidentiality. Democratic structures allowing women to participate and respect for diversity are further elements of empowerment. Survivors should have the right to decide which service they need and also to decide how long they need it, for instance, how long they need to stay in a shelter, and any restrictions would

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<sup>3</sup> Family place = 1 place per woman and child – for instance, if a woman has two children, three places are needed

jeopardize women's safety. Services have to be accessible easily and immediately whenever needed, without lengthy administrative procedures.

Finally, a very important principle of empowering services is that they are open to all women, regardless of their age, ability, nationality, ethnic background, marital status, residence status, sexual orientation and other factors. Unfortunately it still happens in Europe that women survivors of violence are denied services, because for instance they are Roma women or because they do not have a valid residence permit. This represents a violation of basic human rights to life, health and freedom and makes certain groups of women especially vulnerable to violence. Thus it is of utmost importance that no victims of violence are denied support and protection on any ground.

## **2.2 Services for women survivors of violence and their children in Austria**

In Austria the feminist and independent women's initiatives began to establish women's shelters as safe places for women survivors of violence and their children in the mid-1970s, often in cooperation with committed women from political parties. In 1978 the first women's shelter was opened in Vienna. In the following years women's shelters as safe places for women and children were opened all over Austria. Today, for a population of 8 million, 30 women's shelters exist in Austria, providing about 750 places for women and their children. This is still not enough and unfortunately women and their children seeking help have to be turned away regularly.

Additionally, one shelter for women survivors of trafficking, serving women from all over Austria, operates in Vienna.

Women's shelters in Austria provide comprehensive support to women survivors of violence and their children, based on feminist and human rights principles of empowerment and the right to autonomy for every woman. All women's shelters are run by women's NGOs and funded by the regional governments and municipalities.

Most women's shelter run a 24-hour shelter hotline and offer round-the-clock admission to the shelter. All women's shelters provide support for the children by special child workers. The service for women in the shelter includes psychosocial support, legal counselling, after-care, support with the children, as well as help in housing matters and assistance when dealing with the police and at court. Also, women's shelters offer support in immigration matters, they help women to find a job or a job training and support them in taking care of their physical and mental health.

Women can stay in the shelter as long as they need protection and support. In some regions/cities transitional housing programmes help women to establish a new life. Some of the nine provinces in Austria have special housing programmes serving women victims of violence. For instance in Vienna the public housing department runs a special service for disadvantaged people providing them with affordable apartments within a short time. Only a few weeks after the application, which can be submitted through the women's shelter by e-mail, women are allocated an apartment. A few years ago it was decided that immigrant women living in Vienna for five years also qualify for the programme.

In addition to shelters women's NGOs founded more than 40 local and regional counselling centres. Some of them specialise in supporting women or girls, survivors of violence, others in helping immigrant and refugee women. There are also five regional helplines for women victims of sexual assault.

Since 1999 a women's helpline exists in Austria, serving women and girls experiencing all forms of violence in a 24-hour, toll free service in the form of telephone counselling. The helpline is fully funded by the Minister for Women and run by the Austrian Women's Shelter Network.

The Austrian Women's Shelter Network exists since 1988 and provides various services, such as research, training, awareness-raising and lobbying to the staff of shelters. The Shelter Network is also

responsible for the coordination of the European Network WAVE, a forum of women's NGOs working against violence in Europe.<sup>4</sup>

The newest generation of services are the Intervention Centres which were established in line with the Domestic Violence Act that came into force in 1997. The work of the Intervention Centres is described in chapter 2.6.3.

To sum up, Austria has been fairly successful in establishing a network of services for survivors of violence due to the close and good cooperation between women's NGOs who run the services and the federal and regional governments, who finance them. Still, the number of services is not enough and also the quality is not satisfactory everywhere. Thus the improvement of services is an ongoing effort of governments and women's NGOs.

Women's NGOs in Austria and in other countries not only provide services but also carry out awareness-raising activities, effect campaigns, work in schools and so on. As civil society organisations, women's NGOs engage citizens on the regional and local levels in the work against gender violence and represent an important factor for change. Their work is an indispensable complement to the actions of state agencies who cannot reach the goal of eliminating violence against women alone. Public-private partnerships between the state and women's NGOs have been the key to success in Austria.

### **2.3 Comprehensive measures and a coordinated approach to prevent violence against women and protect survivors**

It is the duty of the state to prosecute and punish violence against women, to prevent violence and to protect victims.<sup>5</sup> In order to meet this obligation, a variety of legal measures have to be taken that should be implemented simultaneously: quick and effective protection of victims by the police; civil law protection measures taken upon request by the victim; criminalisation, prosecution and punishment of all acts of violence against women including prevention of further violence by means of probation and social rehabilitation measures for perpetrators; victims' rights and support in court proceedings. Furthermore legal measures have to be accompanied by psychosocial support for survivors; also, the cooperation of police, the justice system and women's organisations providing services to survivors is very important.

For the first point to be realised, penal provisions have to be adopted that criminalise any form of violence against women, and the state must play an active role in the prosecution of such acts. However, it is not enough to prosecute criminal acts: first and foremost, the authorities, the police and the courts have to prevent acts of violence and protect victims from further violence. For this purpose, both the police and the court authorities must be able to take adequate legal measures, e.g., issue barring orders, detain perpetrators or order them to stay away from the victim's vicinity or prohibit that they go certain places to meet the victim. The decision which measures are necessary to protect the victim must be based on a professional assessment of the risk situation, therefore all persons in the police or court authorities involved in such cases need special training. In such decisions, the victim's right to protection must have priority. This principle was definitely adopted by the CEDAW Committee in the two cases of Fatma Y. and Sahide G. versus Austria, where it is stated 'that the perpetrator's rights cannot supersede women's human rights to life and to physical and mental integrity'.<sup>6</sup>

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<sup>4</sup> For more information see [www.wave-network.org](http://www.wave-network.org)

<sup>5</sup> The United Nations Declaration on the Elimination of Violence against Women 1993 states that member states should 'exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons' (Article 4.c).

<sup>6</sup> See CEDAW decisions Nos. 5 and 6 of 2005 [www.un.org/womenwatch/daw/cedaw/protocol/dec-views.htm](http://www.un.org/womenwatch/daw/cedaw/protocol/dec-views.htm)

Criminal prosecution and measures to prevent perpetrators from committing further acts of violence have to be initiated by the state, not the victim. It would put too much pressure on the survivor to have to initiate, or agree to, measures taken by the authorities to prosecute violence or to prevent further harm.

The downside of this per se important approach is that survivors have little influence on measures taken. Therefore it is important to provide a second path: parallel to official action, there should be legal measures that are taken on the initiative of the victim, e.g., protection orders under civil law. In addition, victims should have the right to play an active part in proceedings and the right to support in this context. Below, a number of measures to prevent violence and support survivors are described in more detail and the Austrian coordinated multi-agency model is presented.

#### **2.4. The two important roles of the police in preventing violence against women**

As stated, not all women victims of violence turn to the police immediately and often it takes a long time before they dare to take that step. Still the police are undoubtedly a very important agency, especially in situations of acute danger. It is the core task of the police to protect all citizens and to prevent violent acts. The second important role of the police in violence prevention concerns their tasks in law enforcement and in reporting and investigating crimes. Both of these tasks have to be fulfilled. Unfortunately the police authorities often see themselves as a part of the criminal prosecution system rather than a prevention agency (Römkens 2007).

**The duty to protect survivors from (further) violence:** Experience has shown that women survivors of violence sometimes hesitate to call the police because of a lack of confidence. They fear that they might not be taken seriously or that the police will not believe what they say. This represents a serious obstacle to preventing violence against women. Therefore the causes for mistrust of women in the police should be studied in every country and effective confidence-building measures should be taken. Such measures are described below.

Quick and appropriate response to emergency calls are a key element of good policing. The police need to have the power to enter the residence of a person in danger. If there is a danger of serious harm, the police need the power to arrest the perpetrator (Council of Europe 2002: para 58a) as well as the power to expel the abuser from the house of the victim if the risk is less high. Women and children survivors of violence should have the right to stay in their home, so it should be the abuser who has to leave after a police intervention. Of course survivors should also have the right to choose if they want to stay at home or if they want to go to a women's shelter. In cases of high risk it is not enough to expel the abuser, as the many cases in Austria have shown, and safe places in women's shelters have to be provided in sufficient numbers, even if there is a law to expel the perpetrator. Sometimes women do not want to stay at home because it is the place of severe trauma or they are not safe there, because the relatives of the abuser live in the house or next door.

It should be a standard procedure to interview the victim and the perpetrator separately and to guarantee the right to a female victim to be interviewed by a trained, female officer, especially in cases of sexual violence. Police officers need legal instruments to effect the protection of victims, and specific guidelines on their rights and duties have to be drawn up.

**The role of police in reporting and investigating violence against women:** Violent acts against women are widely underreported crimes and the police have an important role in initiating prosecution. The problematic tendency of the police to function as a gatekeeper to prosecution by failing to take violence against women seriously and contributing to underreporting needs to be changed. The Netherlands have made it an important policy goal to increase the number of first reports on domestic violence against women and at the same time to decrease second reporting by actively engaging in the prevention of violent crimes against women (Council of Europe 2007:21).

Gaining the trust of the victim and investigating thoroughly are two crucial strategies to prevent and prosecute violence against women. Evidence gathering is especially important shortly after the

criminal act; in this context police speaks of the ‘golden hour’ (Council of Europe 2007:21) – evidence collected during this time will make all the difference as to whether the case is prosecuted. Collecting photograph evidence by the police as well as thorough evidence gathering should also become standards in every country.

Effective response to VAW is a management task and has to be addressed at all levels of the police. Training has to be based on clear policies within the police force on how to address violence against women, otherwise it will have little or no impact. Several countries have implemented mandatory police training for all police forces in order to enable them to react efficiently and adequately to emergency calls. At the same time they have installed specialised units on domestic and sexual violence and /or specialised police officers in order to develop, implement and monitor standards of effective policing<sup>7</sup>. Furthermore every police unit should engage actively in multi-agency cooperation and should have protocols and regulations on information sharing. This four track approach – clear policy, basic training for all, specialised units and engagement in a coordinated community response – has proven effective and should be a standard in policing. Professional standards in policing include a police record system that enables identification of cases of violence against women, and permit monitoring of interventions, repeat victimisation and case outcomes.

## **2.5. Police measures to prevent violence against women and protect survivors in Austria**

In Austria training of the police regarding cases of violence against women started in the late 1980s. After a model project in Vienna, on behalf of the Federal Ministry of the Interior the Austrian Women’s Shelter Network developed a training concept and started to organise trainings. These actions were a response to long lasting criticism by women’s organisation that the police did nothing to protect women from violence and that victims ‘had to come to the police station head under arm’ in order to be taken seriously. For some time the Ministry of the Interior also organised internal seminars entitled ‘Women and men in the police’ to address the relationships between the sexes, reduce tension and promote good cooperation. These seminars were unfortunately stopped; they would still be needed very much because women are as yet a minority in the police force and their acceptance and promotion still needs to be improved.

Since the 1980s continuous cooperation between police and women’s organisations started, which was by no means free of conflict. But both parties have been willing to overcome the problems and to keep work relations functioning. Conflicts even resulted in change and improvement. Today police training is mandatory for all police units in Austria and is carried out by a ‘mixed double’ – one trainer from the police and one from a women’s service – and this model has proven successful. Train the trainer seminars are carried out regularly in order to guarantee continuity. Further education for police officers is still not implemented widely and has to be improved in the future. The work to train the police on the issues of violence against women is ongoing, just as the training of other professions.

Special units working on violence against women and domestic violence do not exist in Austria yet, but specialised police officers are posted in some areas and there are plans in Vienna to establish special units in all fourteen police districts.

An important legal reform to make the police a democratic institution came into force in 1991 with the Security Police Act. This law regulates the duties and powers of the police in their tasks of protecting citizens from violence and preventing crime. It established the principle of transparency: all police actions have to be documented, traceable and based on the law. Furthermore it enables citizens to hand in a complaint to an authority independent from the police (Independent Administrative Senate, UVS) if they are of the opinion that a police intervention was unlawful. The UVS is a semi-court and has to lead a procedure that fulfils the criteria of fair trial and has to hear all parties. This is a great

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<sup>7</sup> See London Metropolitan Police Domestic Violence Board <http://www.mpa.gov.uk/issues/dvb/default.htm>



improvement in establishing a democratic police force, but does not go far enough: the Council of Europe Commissioner for Human Rights (2007:92) raised concern about the performance of the Austrian police in his Country Report: “*The Commissioner is of the opinion that accountability and transparency are essential aspects of policing in a democratic society and considers a fully independent monitoring body as the preferred mechanism for investigating complaints about police actions.*” Austria has improved the human rights standards of the police, but there is still a lot to do to establish a truly and solidly democratic police force in Austria, and the cooperation with women’s organisations is a contribution in this respect.

Until the beginning of the 1990s women were excluded from the regular police force and could only work in special areas such as units for sexually abused children. Since 1991 women have the same right to become police officers as men. A special law (Bundes-Gleichbehandlungsgesetz) aims at increasing the number of women in public service by regulating that – in cases of equal qualification – women have to be preferably employed until a percentage of 40% women is reached. This also applies to the police; there are now approximately 50% women in basic training, but the overall percentage of women in the police is still only about 10%.

Because of this shortage of female police officers the police is often not able to fulfil the regulation that women victims of violence have to be interviewed by a female police officer. The establishment of special units for violence against women and domestic violence would improve the situation and is also necessary because it will take some more years before the police force reaches gender-parity.

## **2.6. The Domestic Violence Act in Austria – a model of a co-ordinated and victim-centred law**

In 1997 an important law, the Domestic Violence Act, came into force and completely changed the work of the police in the area of violence against women and domestic violence.

The previous mode of intervention to recommend to the victim to leave the house in cases of partner violence was replaced by the obligation of the police to intervene actively, to protect victims in their homes and to expel the violent husband or partner. The law also has two other elements that will be presented in the following part in order to show the coordinated character of the regulations – a key to its success.

Essential impulses for change in Austria came from the international level: the campaign Women’s Rights are Human Rights and the definition of violence against women as a human rights violation on occasion of the UN Human Rights Conference in 1993 in Vienna were important steps (Bunch/Reilly 1994). Upon the initiative of a very committed Minister for Women’s Issues, in 1994 the Federal Government established inter-ministerial working groups with the clear mandate to develop measures to improve the protection of victims of violence in the family in such a way that they would be able to stay in their own homes.

Experts from independent women’s NGOs took part in all the working groups, as well as members of the police and the courts and feminist lawyers. The Act was not designed for the protection of women only, but for the protection of all family members. Women’s NGOs agreed to the scope of the Act to include all family members, well aware of the fact that victims of violence in the family are predominantly women and children and that they would benefit most from the introduction of this law.<sup>8</sup>

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<sup>8</sup> In the women’s movement there are ongoing discussions on whether special laws for the protection of women are necessary or whether general laws are sufficient; each position has its pros and cons. The disadvantage of a gender-neutral law is that it obscures the nature of violence against women in the family as gender-based violence that is ‘*violence that is directed against a woman because she is a woman or violence that affects women disproportionately*’ (United Nations 1992). The Spanish Organic Law 2004 recognises violence against women as gender-based violence and exclusively addresses violence against women.

Of course the Act also met with resistance, especially with regard to eviction and barring orders against the perpetrators. Opponents said this was an infringement of fundamental human rights and a violation of Article 8 of the European Human Rights Convention. However, the proponents of the Bill could refer to human rights standards also, as according to Article 8, 2, the public authority may interfere with the privacy of a family if the life, health or freedom of persons is threatened.

The Domestic Violence Act consists of three elements which were developed in combination and are tuned to each other. The three elements are:

1. Eviction and barring orders<sup>9</sup> by the police for a duration of 10 or 20 days
2. Longer-term protection by means of a protective temporary injunction under civil law
3. Immediate support for all victims after police intervention by Intervention Centres.

### **2.6.1 Eviction and barring orders by the police – the Penalty/Red Card for Abusers**

For each intervention in cases of domestic violence, the police must assess the danger involved on the spot<sup>10</sup>. If the assessment shows that there is an immediate danger to life, health or liberty of a person, the police must evict the endangering person from the dwelling immediately and prohibit that he<sup>11</sup> enter the dwelling and its surroundings for ten days. The eviction protects each person and no matter who owns or rents the dwelling. Thus eviction by the police not only protects wives, children and other family members, but all persons who are threatened by violence in their sphere of living such as tenants or students living together.

The measure is not contingent on the assent of the victim. This would be counter-productive in cases of domestic violence, as the endangerers<sup>12</sup> often exert great influence over the victims, which would put them in a position to make any measure ineffective.

If survivors apply for a protective order under civil law the court has to inform the police that such an application has been filed and the duration of the eviction by the police is extended to 20 days. The police is also obliged to inform the regional Intervention Centre (see next section) by transmitting the documentation of the intervention via fax or e-mail. The centres offer immediate support which is very important for the empowerment of women in this crisis situation. Where underage children are involved, the Youth Welfare Department is also informed by the police.

On the occasion of the eviction the police have to take all keys to the house away from the violent person and pass them on to the judge, if the survivor applies for a court order.

The endangerer and the victim have the right to be informed by the police about this measure via an information leaflet. The endangerer has the right to take personal belongings with him.

The police has to check compliance with the barring order at least once within three days after eviction. The barring order cannot be revoked by the security force (i.e. police officers in uniform), but only by police authorities. The person evicted can appeal to the UVS (see section on the police above).

In case of a violation of the police order, the endangerer is fined (up to € 350 per violation) and removed from the dwelling and its surroundings by order and by force if he refuses to leave. Should he repeatedly violate the barring order, he can also be arrested.

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<sup>9</sup> The police measure consists of two parts – the eviction and the barring order. In this text, for reasons of convenience sometimes only one of the two terms is used to imply both parts.

<sup>10</sup> The police has to investigate and assess the danger according to certain criteria and write a comprehensive report about the danger identified; a special form is used to write the report.

<sup>11</sup> Since according to Austrian police statistics, more than 90% of the perpetrators of domestic violence are male, we use the pronoun 'he' rather than a neutral expression, but we also mean female perpetrators where applicable.

<sup>12</sup> Endangerer is the expression the Austrian law uses for the abuser

The eviction is a preventive measure in that it is not contingent on an act of violence to have already taken place. However, if a violent act has been committed, the police also have to file a report because all violence acts are prosecuted ex-officio in Austria.

### **2.6.2 Longer-term protection by means of a civil law protection order**

After ten days of police protection a different system of protection for the victim begins to operate. In the case of imminent danger it is the duty of the state to protect the victim. However, a security measure such as the barring order should not last indefinitely, because this would take the power of action away from the victims. The aim of the eviction is to relieve the victims and to free them from the sphere of influence of the abuser. This temporary separation has proven its great merits in practice.

As stated, the survivor can apply for a protection order in the form of a temporary injunction valid for three months from the civil court/department of family law. The application for a temporary injunction is not contingent on a prior eviction by the police. If the survivor intends to initiate divorce proceedings or proceedings to secure the dwelling, the duration of the temporary injunction is valid until these proceedings have been concluded. The protection order can also prohibit that the endangerer take up contact with the victim, i.e. prevent him from coming to her place of work and to the kindergarten or the school their kids attend.

Upon application of the victim the police can enforce the protection order at the Family Court and remove the perpetrator from the dwelling in case of a violation. For the protection of the children, the protection order may also be applied for by the Youth Office.

Since the Austrian Anti-Stalking Act entered into force in July 2006, the police is also obliged to protect victims of stalking through 10 days police barring orders and victims of stalking can also apply for a protection order at the civil court. This has improved the protection for victims who did not live together with the perpetrator or did not even have a relationship with him.

### **2.6.3 Proactive support for survivors by Intervention Centres**

As a social measure concurrent to the Protection against Violence Act, an Intervention Centre was established in each of the nine Austrian provinces. The Intervention Centres are run by independent non-profit women's NGOs. Approximately 50% of the funding comes from the Federal Ministry of the Interior, the other 50% from the Minister for Women.

The transfer of data in case of evictions by the police is regulated by a corresponding passage in the Protection against Violence Act. The women active in the Intervention Centres support the victims and their children in all matters concerning their protection and the securing of their rights, in civil as well as in criminal lawsuits. The Intervention Centres also have the task to take a variety of legal and social measures in order to prevent violence.

The Intervention Centres follow a proactive approach. This means that rather than waiting for the victims to contact their institution, they write letters or make phone calls to offer help. It is necessary to meet survivors halfway in order to take the burden to seek help off them. Of course it is completely up to the victims to decide whether they want to accept the help offered to them.

One of the core tasks of the Intervention Centres is to assess the danger inherent in the situation and to plan safety measures together with the victims. It is very important to determine whether the eviction will provide sufficient protection or whether the endangered persons should rather move to a safe place, e.g., a women's shelter, at least for a few days. Sadly enough murder and attempted murder are an all-too frequent consequence of domestic violence. This demonstrates the importance of continuous danger assessment, safety planning and extensive interventions against violence.

The Domestic Abuse Intervention Centre in Vienna receives about 4 000 reports from the police in one year and employs 27 staff to support survivors. In 2007, after three years of lobbying, the federal

government of Austria increased the budget of the Intervention Centres 60% to enable them to serve all victims after police interventions.

Since 1999 the Intervention Centre in Vienna runs a Anti-Violence Training for violent men together with the Men’s Center (Kraus/Logar 2007). The programme is primarily designed for men mandated by court or child protection to attend. It aims at perpetrators taking responsibility and refraining from all forms of violent behaviour. The programme applies international standards and puts safety of victims at the centre (Respect 2008).

**Where do the abusers go after an eviction?** The background for this frequently asked question is the fear that the evicted persons are left out in the streets or suffer some kind of harm. In practice these fears have turned out to be unfounded. Most of them address friends or relatives, some go back to the good old "Hotel Mama". In the urban area there are shelters for the homeless. However, the evicted persons are reluctant to go there and do so only in cases of emergency, as they prefer other solutions to sleeping in such an institution – some even use their cars as a temporary sleeping facility. In rural regions, they take up quarters in cheap guest houses and pensions, and if they have no means of their own, the costs are covered by welfare. The City of Vienna has a social housing programme that also provides housing to men who lose their home because of violent behaviour, provided they stop the violence. In any case, the question of where they will stay should not be an obstacle to evict perpetrators if this measure is necessary for the protection of the victims, since ‘perpetrator’s rights cannot supersede women’s human rights to life and to physical and mental integrity’.<sup>13</sup> It is up to our society to provide living space for those evicted, if necessary.

**2.6.4 Statistics**

Unfortunately Austria still does not collect data of all measures to prevent violence against women. The best documented areas are police interventions and support services such as Intervention Centres and Women’s Shelters. No statistics exist up to date about the number of civil court orders issued to protect victims from violence. In general data collection has to be improved in Austria, in order to be able to evaluate the implementation of laws.

The statistics of the Ministry of the Interior on the implementation of the police eviction and barring orders are as follows:

| <b>Year</b>  | <b>Police eviction/<br/>barring orders</b> | <b>Charges<br/>on grounds of<br/>violation</b> |
|--------------|--|--|
| 1997         | 1 449                                      | 38   |
| 1998         | 2 673                                      | 252  |
| 1999         | 3 076                                      | 301  |
| 2000         | 3 354                                      | 430  |
| 2001         | 3 283                                      | 508  |
| 2002         | 3 944                                      | 475  |
| 2003         | 4 174                                      | 633  |
| 2004         | 4 764                                      | 641  |
| 2005         | 5 618                                      | 668  |
| 2006         | 7 235                                      | 629  |
| 2007         | 6 347                                      | 586  |
| <b>Total</b> | <b>45 932</b>                              | <b>5 261</b>                                   |

n. i.= not indicated

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<sup>13</sup> CEDAW Decisions Nos. 05/2005 and 06/2005; [www.un.org/womenwatch/daw/cedaw/protocol/dec-views.htm](http://www.un.org/womenwatch/daw/cedaw/protocol/dec-views.htm)

From 1997 to 2007 more than 45 000 barring orders were issued by the police. As the statistics show, the number of evictions and barring orders in Austria has risen almost each year. This is probably less due to growing violence than to the fact that the new legal measures are increasingly adopted by the police. The number of violations of evictions and barring orders is relatively low, ranging at about 11% of the total numbers of police orders. This shows that abusers respect the order, probably not because they realise that it is not acceptable to exercise violence against women, but because they know it has consequences. Changing of attitudes takes much longer, but clear signals from society, such as the “Penalty Card” for abusers in the family, can change behaviour and make survivors’ lives safer.

The implementation of the Domestic Violence Act has been evaluated in two studies so far (Dearing/Haller 2000; Haller et al 2002). The second evaluation showed a change of attitude of survivors who did not approve of the police barring order in the first place: ‘While in the beginning they had opposed these measures ..., they admitted in the follow-up interviews how helpful the new legislation had been. Meanwhile they had managed the separation emotionally and said that without the help from the police they would never have decided to separate. Their response highlights the importance of the police taking these victims seriously and taking decisive action at the incident’. Survivors were also very positive about the support from Intervention Centres (Humphreys/Carter et al 2006:10,11).

The Protection Against Violence Act is a valuable instrument for creating a sphere of protection for the victims. But an eviction does not keep extremely dangerous perpetrators from committing further acts of violence. In such cases arrest is the only means to prevent the escalation of violence and to protect the lives and health of victims.

## **2.7 Standards for civil law protection orders**

Protection measures under civil law for which victims may apply, such as the Austrian civil law protection order for survivors of domestic violence and stalking, are important instruments of prevention and should be available in every legal system. They help those victims who do not want to turn to the police or criminal courts and enable them to take active steps against violence themselves.

In Europe, various types of protection orders have been established in recent years, and now the question has arisen whether only the victims themselves, or also other persons or institutions, should have the right to apply for protection orders. My experience is that provisions under which third parties are entitled to apply for protection orders involve the risk that the victim is treated as if she were a minor. Therefore, I think that it is sensible only in cases where the victims are children that agencies in charge of child protection are granted the right to apply for protection orders under civil law.

Civil law protection measures should not serve as instruments that replace measures under criminal law to prevent perpetrators from committing further acts of violence. This would mean that the state imposes on the victim the obligation to prevent further violence.

Protection orders under civil law should be available to all women who have experienced violence and thus are impaired in their personal sphere. This group includes victims of domestic violence and victims of stalking, but also victims of sexual violence in the public sphere or sexual harassment at the workplace, if the perpetrator continues to harass them. The right to apply for protection under civil law should be an individual right and should not depend on one’s marital status. There are many examples of civil law protection measures in Europe that obviously are not comprehensive enough and do not protect all victims. Almost all protection orders were introduced in the context of domestic violence or violence in partnerships, and it was not taken into account to a sufficient degree that as a consequence, the legal definition of family or partnership, which may be very narrow, is the basis of the decision whether a victim is granted protection or not. Moreover, in such a case it is the victim who has to prove that the violence was committed in the context of a family or intimate relationship.

In Austria, initially, the protection orders under civil law that were introduced under the Protection Against Violence Act of 1997 were restricted to family members who had lived together until three months ago. As this excluded many victims, the Act was amended in 2000. However, the corresponding provisions are still too narrow, because they have again been based on the requirement that the victim and the perpetrator have lived together. In providing protective measures, it has to be taken into account that not all partners share a flat, and protection should also include all victims, including those who have had no, or only a short, intimate relationship with the perpetrator. The Anti-Stalking Act of 2006 has closed some of these gaps, as now also victims of stalking are granted the right to apply for protection orders. Another problem of the Austrian situation is that the protection period is restricted to three months in certain cases.

For civil law protection orders to be effective instruments of protection against violence, enforcement by the police should be possible. In addition, violations of civil law protection orders should be regarded as criminal offences.

Protection from domestic violence and the right to a life free of violence should also be a principle in all the relevant areas of family and divorce law. Legal measures should be in place to guarantee adequate alimony to women and children, and victims of family violence should have the right to stay in the family dwelling after divorce. Victims should not suffer any financial disadvantages as a result of separation, and their social insurance and pension rights should be ensured.

## **2.8 Civil law measures to protect children**

If the mother is abused, her children are always – directly and indirectly – affected by the violence too, especially in cases of domestic violence. Violent husbands or partners are also violent fathers or stepfathers and protective measures should always apply to women **and** their children; a woman should have the right to obtain a protection order on behalf of her children. Special attention needs to be given to women and children experiencing domestic violence during the process of separation, since violence tends to escalate in this period. Most homicides are committed when the victim tries to leave the violent partner, and often children are severely affected or murdered, too.

Fathers' rights movements have gained growing public attention and influence in court in the last few years. Unfortunately, violent fathers have also profited from this development that is jeopardising the safety of children. Such initiatives often pretend to act in the interests of the child (in Austria they appeal to the 'right of the child to both parents'), and even misuse the right of the **child** to maintain contact with both parents as an argument to assert their own interests. This certainly does not correspond with the provisions of the UN Convention on the Rights of the Child (1989), which clearly states that it is the right of the child who is separated from one or both parents to maintain personal contacts with them; this includes the right not to have contact; otherwise, it would be a duty. Unfortunately, violent fathers sometimes succeed in convincing judges that it is in the interests of the child to have contact, even if the child does not want it.

Child protection authorities often insist that a mother separate from the violent partner to protect the children – instead of demanding of the violent father that he change his ways and imposing conditions for further contact. After the separation, the authorities sometimes seem to forget about the violence and support the father's right to see the child<sup>14</sup>. Needless to say, this severely disrupts the relationship of trust between mother and child and places the child in danger.

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<sup>14</sup> Marianne Hester (2004) has developed the model of the three planets: the violence against women planet, the child protection planet and the visitation and contact planet; the disconnection of this three planets jeopardises the safety of children.

In order to fulfil the obligations under the UN Convention on the Rights of the Child,<sup>15</sup> in any legal decision, the rights of the father (custody or visitation rights) should never supersede the right of the child to be protected from violence.

## **2.9 Standards for prosecution and prevention in the criminal justice system**

The right to life, health and freedom are fundamental human rights, and the criminalisation of all forms of violence against women is a measure to guarantee these human rights. Three questions arise in respect of criminalisation: The question as to what is criminalised and what not, the question as to what is subject to prosecution and by whom and the question of implementation of laws.

In Europe, there is a trend towards criminalising violence against women and removing exceptions such as rape in marriage (Council of Europe, 2007a). Despite this progress, there is still reason for concern regarding gaps in criminalisation and poorly drafted laws (for instance, rape is not always defined by the absence of consent). Another question that arises is whether instances of violence against women should be covered by general articles in the penal code or whether they should be defined as special crimes. Examples of special provisions in the criminal law are Spanish Organic Act No. 1/2004 on Integrated Protection Measures against Gender Violence, and the Swedish penal code sanctioning ‘Gross violation of women’s integrity’ (Council of Europe 2007 b,c). These laws recognise violence against women as gender-based violence, whereas other laws, such as laws on domestic violence, tend to see the problem in non-gender-related terms and this sometimes even leads to regulations that define acts in the family as less serious than violence in the public sphere.

It can be said that special laws do not automatically lead to better results in criminalising violence against women; the leading principles in law-making in this respect should be that violent acts against women are to be taken as seriously as other crimes and that special circumstances of violent acts against women, such as dependence on the perpetrator, should count as aggravating factors.

In some countries, the responsibility for initiating prosecution still rests with the victim. This contributes to the underreporting of violent acts against women, especially as regards violence in the family or partner violence. Leaving the initiative for prosecution to the women subjected to violence not only places unbearable pressure on the victim, but also jeopardises the victim’s safety. In order to fulfil the obligation to prevent violence and to protect victims, mandatory prosecution by the state must be a principle, as recommended in the United Nations General Assembly resolution of 1997 on measures to eliminate violence against women.<sup>16</sup>

The fact that violent acts against women are punishable does not always mean that they will be punished. Underreporting, high attrition and low conviction rates mean that the vast majority of violent acts against women remain unsanctioned. According to a study in Northern England, of 869 cases of domestic violence recorded by the police, only 31 ended in the conviction of the perpetrator and only four resulted in custodial sentences (Hester 2003, quoted in Humphreys/Charter et al 2006:18). This represents a serious obstacle to the state’s obligation to punish violence against women and contributes to the high rates of revictimisation. Moreover, the potential of modern criminal systems that provide not only for sanctions but also for preventive measures and measures for social rehabilitation of perpetrators is rarely fully utilised.

In order to contribute to the elimination of violence against women, to improve the implementation of laws, to increase reporting and conviction rates and revictimisation, states should introduce due diligence standards in the criminal justice system such as:

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<sup>15</sup> Article 19, para. 1, States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

<sup>16</sup> United Nations General Assembly resolution 52/86 (1997), Annex, II (b) “The primary responsibility for initiating prosecutions lies with prosecution authorities and does not rest with women subjected to violence”.

- Mandatory reporting by authorities and mandatory prosecution;
- Speedy and comprehensive evidence-gathering;
- Clear guidelines on how to deal with the different forms of violence against women, including standardised risk assessment and the obligation to maintain close cooperation with victims' services;
- Specialised units in prosecution services;
- Specialised courts or special court proceedings guaranteeing fast and efficient handling of cases;
- Mandatory training for prosecutors and judges;
- The possibility of arrest in criminal procedures in order to prevent revictimisation;
- Provision and application of criminal law restraining orders to protect victims and prevent repeat victimisation (not instead of arrest, but for cases of low risk of revictimisation);
- Mandatory anti-violence training for perpetrators, not instead of, but in addition to, sentences and court orders to work with probation;
- No application of mediation or out-of-court settlements in cases of domestic violence against women and other forms of violence.

## **2. 10 Violence against women in the Penal Code in Austria**

In Austria legal reform has introduced ex-officio prosecution in all areas of violent crimes.

Rape in marriage became a crime in 1989, and forms of violence against women that had not been criminalised prior to that time were written into the penal code: the Anti-Stalking Law came into force in July 2006, and female genital mutilation and forced marriage as a form of aggravated coercion were penalised as well.

Unfortunately very few statistics exist about the implementation of criminal law in cases of domestic violence. High attrition and low conviction rates are a problem of concern in Austria, too. Although there is mandatory prosecution of all violent acts, a high percentage of proceedings are quickly dismissed, even if the victim testifies, because the assault is not deemed punishable (Humphreys 2006:18). The new Anti-Stalking Act has shown a high reporting rate from the beginning. In 2007 for the whole of Austria 2 049 cases of stalking were reported to the police. In 75.2% of the cases the prosecutor's office did not prosecute and closed the proceedings. 8.1% were dealt with in out-of-court settlement (diversion), in 6.15% the accused were acquitted, and only in 10.5% of the cases the stalker was convicted. These numbers show that Austria, despite a number of legal reforms introduced in the last few years, still has to make major efforts in law enforcement in order to hold perpetrators accountable and exercise due diligence to prevent violence and protect victims.

## **2. 11 Victims' rights in criminal proceedings**

Women victims of violence should have the right to support and to free legal aid in all legal proceedings, especially in criminal proceedings, in order to ensure access to justice and avoid secondary victimisation. In Austria, a legal provision was introduced in 2006 guaranteeing all victims of violence the right to free psychosocial and legal aid in criminal proceedings. Furthermore, the rights of victims in criminal proceedings were expanded to include provisions such as the right to be informed if the perpetrator is released from arrest, to ask questions and to bring in evidence. These are major reforms to improve the situation of survivors in criminal proceedings.

Minimum standards of victims' rights should include:

- The right of all victims, including victims from immigrant or minority groups and other especially vulnerable victims, to be treated with the utmost respect;
- Effective measures to avoid secondary victimisation or any gender- and victim-insensitive treatment;
- Legal proceedings that ensure the maximum safety of women victims of violence, including the right not to testify in front of the perpetrator; courts should also ensure the anonymity of victims in the media;



- The integration of violence against women into witness-protection policies and standards;
- The implementation of court procedures that both protect the victims from revictimisation and enable them to provide the best evidence; the requirement for the victim to testify repeatedly should be restricted to a minimum;
- The right to be supported, accompanied and represented in court by a specialised victims' service; this service should be free of charge;
- The right to be given information about all proceedings concerning them, including information about the release of the perpetrator from pre-trial detention or from jail;
- The right to engage actively in the proceedings, including the right to bring in evidence and ask questions;
- The right to financial compensation and support for obtaining it.

## **2. 12 Guaranteeing social and economic rights to survivors of violence**

As stated, legal protection from violence is important, but it is not enough: women survivors of violence have to be guaranteed basic social and economic rights, in order to have a real chance to live a life without violence. This should include, as a minimum, the right to alimony, but also the right not to depend financially on the violent ex-partner thanks to the right to financial assistance by the state, for women who do not have an income of their own (yet); the right to employment and training, including the right to cost-free language courses for immigrant women; the right to cost-free child care; the right to affordable housing; the right of residence for all immigrant women, independent of their husbands or other family members; and the right of survivors of violence who were brought to the country through marriage, mail orders, or trafficking, to stay in the country after separation and to be granted a humanitarian visa.

Regarding the social, political and economic rights of survivors, the United Nations Commission on Human Rights recommends to member states 'to take all measures to empower women and strengthen their economic independence and to protect and promote the full enjoyment of all human rights and fundamental freedoms in order to allow women and girls to protect themselves better against violence and, in this regard, to give priority to education, training, economic opportunity and political participation of women.' (United Nation Commission on Human Rights 2003: para14c).

## **3. Conclusion**

In Austria the coordinated response of the police, the civil/family court and the Intervention Centres has been developed within the framework of the Domestic Violence Act. The legal regulations have made close cooperation possible and mandatory, not relying on the willingness of individuals to work together. The proactive support of survivors as a part of the laws has proven to be a measure of central importance for survivors. Thus laws that do not include comprehensive support to victims risk failure.

The legal framework has created a rather well functioning intervention chain, even if the chain still has some missing links that need to be closed. Important steps to improve the criminal justice response to violence against women and children have been made in the last three years, after many years of lobbying by women's NGOs and other actors. The two cases brought before CEDAW under the Optional Protocol<sup>17</sup> and the decision of the CEDAW Committee that Austria had violated the rights of the two women concerned who were murdered by their husbands, by not providing effective protection to them, has stimulated important changes in the criminal justice system. The CEDAW Committee recognised in its decisions (2007) that Austria had introduced important legal reforms in the area of violence against women, but that it was not enough to have good laws, they have to be implemented in every single case. The Committee provided a number of recommendations to Austria regarding the improvement of the implementation of laws.

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<sup>17</sup> CEDAW Decisions Nos. 05/2005 and 06/2005; [www.un.org/womenwatch/daw/cedaw/protocol/dec-views.htm](http://www.un.org/womenwatch/daw/cedaw/protocol/dec-views.htm) 15 Sept 2008

Already in 2006, as a response to the communication of the two cases to CEDAW, the government had changed the article regarding dangerous threats: the regulation that, in cases of violence in the family, the victims had to consent to prosecution was abolished. This is a good example of how international human rights law can positively influence the situation at the national level and improve women's enjoyment of their human rights. In May 2008, a new draft law was presented by the Minister of Justice containing among other measures substantial improvements for victims in the civil law protection order. Furthermore, a new article defining repeated violent acts against a person as a crime will be introduced into the penal code. Unfortunately the law could not be passed in parliament yet due to new elections, which have brought frightful results – a considerable increase of votes for right wing parties. Once again, it will not be easy in Austria to improve the human rights situation, including that of women and children. But women's organisations will certainly not cease to work for this aim with all their strength.

In order to be successful in fulfilling the 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 to victims' (Council of Europe, 2002), states need to have a comprehensive and coordinated policy in place. This policy must be based on the needs of victims and include legal provisions in all the relevant areas of law, including criminal law, and civil and administrative law measures in areas such as marriage and divorce, child custody and child protection, immigration, housing, employment, social benefits, insurance and others. International conventions and recommendations for the protection of women against violence should be implemented in national legislation, and the decisions of treaty parties should be applied in court decisions at the national level.

Laws need to be harmonised and consistent; gaps and contradictory regulations that might jeopardise the effort to prevent violence and protect victims must be avoided. Women's NGOs supporting victims of violence should be invited to participate actively in the drafting, implementation and evaluation of laws, ensuring that the needs of victims are represented in the making of laws. Constant monitoring and evaluation of laws are necessary to assess their effectiveness; this includes the systematic collection of data, as well as the participation of victims in evaluation processes.

It takes more than a few years to eliminate all forms of violence against women, therefore activities and measures must be organized on a long-term basis; they should not be limited to temporary projects and one time action. Effective prevention of violence against women will cost money, but violence which is not prevented would cost a lot more.

CV

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