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**WAVE WOMEN AGAINST VIOLENCE EUROPE**

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## Vienna + 20 Advancing the Protection of Human Rights International Expert Conference 27 – 28 June 2013, Vienna, Hofburg, Austria

### Working Group 2: Realising the Human Rights of Women Universally: Tackling the Implementation Gap

By Rosa Logar

In my contribution I am aiming to combine the proposed focus of Working Group 2 on full and effective participation of women and girls together with the issues of violence against women and girls, which is the main focus of my work. I will do so mainly from a European perspective and based on the experience of the European network WAVE (Women against Violence Europe), a network of women's organizations working to end violence against women and their children since 1994.<sup>1</sup>

Women's rights are human rights was the name of the global Campaign women's groups from all parts of the world carried out to prepare for the World Conference on Human Rights in Vienna in 1993. I was working in the Austrian women's shelter network at that time and we were approached by Charlotte Bunch and Niamh Reilly to serve as the Austrian contact and to help organize the women's human rights place at the NGO forum. What did it mean women's rights are human rights? Why was that not self evident? Why did we need a campaign? Women's organizations argued that in every part of the world women experience violations of their fundamental human rights, that women are discriminated against, exploited, treated like slaves, aborted, mutilated, tortured and killed every day because they are women and thus worth less than men. At the Conference I had the opportunity to take part in the Global Tribunal on Violations of Women's Human Rights<sup>2</sup> where women from all parts of the world testified about human rights violations.<sup>3</sup> Women's NGOs were one of the most active groups at the 1993 Human Rights Conference. A central theme of the conference was violence against women and for the first time it was recognized that this violence is not a "private" affair, but a public matter and a violation of women's human rights.

The Vienna Declaration and Platform for Action called upon the General Assembly to adopt the Declaration on violence against women which took place the same year.<sup>4</sup> Several other measures were implemented following the recommendations in the Vienna Declaration and Platform for Action, such as the establishment of the post of the Special Rapporteur on Violence against Women, currently held by Rashida Manjoo.

In the last twenty years many more activities have been carried out on the international level as well as nationally to address the issue of violence against women and to prevent this widespread form of human rights violations. Still, the prevalence of violence against women remains high and there are, unfortunately, few signs of decrease. It is not possible to provide detailed analyses of the situation concerning violence against women in Europe in this paper; therefore I will concentrate on a few aspects and will highlight the gaps in implementing human rights of women rather than the successes.

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<sup>1</sup> WAVE Network: <http://www.wave-network.org/>

<sup>2</sup> Global Tribunal on Violations of Women's Human Rights-clip: [http://citizenshift.org/node/682&dossier\\_nid=1127](http://citizenshift.org/node/682&dossier_nid=1127)

<sup>3</sup> Bunch, Charlotte / Reilly, Niamh (1994): Demanding Accountability. The Global Campaign and Vienna Tribunal for Women's Rights, New York 1994

<sup>4</sup> UN Declaration on the Elimination of Violence against Women-General Assembly resolution 48/104 of 20 December 1993 para 4c



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Before going into the gaps of implementation I would like to mention one milestone in Europe concerning the prevention of violence against women: the Istanbul Convention on preventing and combating violence against women and domestic violence which was adopted in May 2011 in Turkey. The Convention is open for signatures and ratifications to all countries. So far it has been signed by 26 Council of Europe member states and ratified by 4 (Turkey, Albania, Portugal and Montenegro) <sup>5</sup> and it will come into force with the ratification of 10 states (8 from the Council of Europe). In Austria the law is in parliament ready for ratification in the July session.

The Istanbul Convention is the first legally binding instrument in the area of violence against women in Europe. It is a comprehensive document, covering the area of policy, prevention, provision and prosecution and providing many detailed provisions in more than 80 articles. It contains an extensive non-discrimination clause, including the prohibition of discrimination based on sexual orientation, gender identity, migrant or refugee or other status. <sup>6</sup> The Convention focuses on violence against women as gender-based violence and makes a clear link between violence and discrimination against women. Thus the Convention also provides an excellent base for implementing international human rights standards such as the provisions of the CEDAW.

Despite of shortcomings due to compromises that had to be made in drafting such an international document, I am proud of this European milestone, especially because I had the opportunity to participate in the drafting of the Convention; I was together with a colleague from the Ministry of Justice, representing Austria on behalf of the Austrian Minister for Women in the drafting committee CAHVIO. This is an example how a democratic state can work in close cooperation with civil society organizations and can include women's experts to participate in decision making processes. Of course I had to represent the position of the government, and not the position of my NGO, but luckily the positions were mostly identical. I believe that Austria was able to make valuable contributions to the convention deriving from the long experience of women's NGOs in supporting women's survivor of violence.

It was also important that the WAVE network was invited by the Council of Europe to participate in the drafting committee. From my experience women's NGOs and women's rights defenders in the area of violence against women are often excluded from decision making processes and thus hindered to bring in their expertise. This is a concerning shortcoming in the development of democratic societies but also a waste of opportunities and resources; it also excludes young women from participatory processes.

Protection from violence and access to justice are core elements of human rights norms in the area of violence against women. How could we measure the status of implementation in these two areas? I will try to do so by

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<sup>5</sup> Status on the 2st of June 2013

<sup>6</sup> Istanbul Convention 2011, Article 4.para 3: The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.



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looking at some possible indicators – the number of women’s shelters available to women survivors of violence and the implementation of protective measure.

### **Lack of women’s shelters**

The WAVE network is defining women’s shelters as specialized services for women survivors of violence and their children. According to the standards of WAVE, such women’s shelters should be run by independent NGOs; they should be solely committed to realizing the rights of survivors and should not be influenced in their work by any party, religious group, state authority or others. Women survivors of violence sometimes encounter discrimination through state institutions and even experience violations of their rights when seeking justice; women’s shelters which are not independent, are hardly able to empower and support women to address such discrimination. Thus women’s shelters, just as human rights institutions, need to be independent from the state and other influences. .

Women’s shelters are safe places for women and children fleeing from male violence. Most women’s shelters accommodate women who are survivors of domestic violence, others provide support also to survivors of trafficking and other forms of violence. Research and practice show, that women’s shelters continue to be of central importance to survivors of violence, even in countries where legislation such as protection orders, which provide the possibility for women to stay in their homes, exist. Not all women survivors of violence dare to turn to the police or the justice system for protection or they don’t believe that such an order would keep their violent partner from abusing them.

Despite the clear need for safe places for women survivors of violence and their children, there is still a concerning lack of specialized women’s shelters in Europe: According to the WAVE Country Report 2012, more than **52,000 places are missing in women’s shelters in Europe**.<sup>7</sup> This figure is based on the recommendation of the Council of Europe Task Force to Combat Violence against Women, which states that as a minimum standard, there should be one place in a women’s shelter per 10,000 inhabitants.<sup>8</sup> According to this recommendation, there should be approximately 82,000 places in women’s shelters in Europe, but only approximately 30,000 are available. The situation is especially concerning in Eastern Europe and also in the new EU countries: of the approximately 2,200 women’s shelters in the EU, over 2,100 are located in the “old” EU member states<sup>9</sup> and only approximately 80 specialized women’s shelters exist in new EU countries. About 25,000 women’s shelter places are missing in the EU.

This figures show that women and their children seeking protection in women’s shelters in Europe only have a one in three chance on average to find refuge and in many regions there are no or no adequate provisions. As a result, women face great difficulties in separating and since there is often also a shortage of affordable housing, women end up having to stay with the violent husband even after the divorce. This situation

<sup>7</sup> WAVE Country Report 2012: <http://www.wave-network.org/content/country-reports>

<sup>8</sup> Council of Europe (2008): Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (EG-TFV)- Final Activity Report, quoted in the Explanatory Report of the Council of Europe Convention 2011 on preventing and combating violence against women and domestic violence

<sup>9</sup> States who were members before 2004



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jeopardizes the basic human right of women survivors of violence and their children to life, health and freedom and can lead to femicide or to woman committing suicide.

Apart from the lack of women's shelters, there is also the problem that some women are denied access to women's shelters because of their ethnic background or residence status. This especially affects undocumented migrant women and women from certain ethnical background such as Roma women. To change this situation of human rights violations and injustice, the WAVE network will carry out a campaign to improve access of undocumented migrant women to shelter and justice in the next years, together with the European based Platform for International Cooperation on Undocumented Migrants PICUM.<sup>10</sup>

There is an urgent need that states increase the number of specialized women's shelters in their countries and provide for independent and empowering services based on the rights and needs of survivors. All women survivors of violence and their children, regardless of their nationality, ethnic background, residence or any other status, must be admitted to women's shelters and adequate funding must be provided to support undocumented women.

### **Legal protection from violence – concerning gaps in implementation**

The majority of the countries in Europe have introduced some kind of legal protective orders in order to protect women and children from violence. While this in itself is a good development, there remain many questions concerning the quality, implementation and effectiveness of such measures. According to the WAVE country report 2011, most countries do not even provide statistics regarding the numbers of protections orders issued to protect women and children from violence. It is a sign of poor implementation not to know which groups of survivors are able to access such provisions, how often protective measures are applied, if perpetrators comply with the order and if the measure is effective to stop the violence.

Also there is a lack of administrative data in the area of violence against women, especially regarding the crime and criminal justice statistics (see WAVE Report 2012).<sup>11</sup> The recently published Gender equality Index of the European Gender Equality Institute identifies violence against women as one of the important indicators for gender equality but is not able to provide any data on the problem.<sup>12</sup> The European Union Fundamental Rights Agency is currently finalizing the biggest ever European survey on gender-based violence against women; within the study 40.000 women were interviewed in 27 countries and Croatia. Despite some methodological limitations<sup>13</sup> the study will be an important milestone regarding the knowledge base on gender-based violence and an important source for the improvement of policies to end violence in the EU.<sup>14</sup> The Istanbul Convention also sets standards on data collection and documentation and recommends for instance, that all administrative

<sup>10</sup> PICUM (2012): Report Strategies to End Double Violence; <http://picum.org/en/publications/reports/>

<sup>11</sup> WAVE Country Report 2012: <http://www.wave-network.org/content/country-reports>

<sup>12</sup> EIGE Information on the Gender Equality Index published 13 June 2013 in Brussels, <http://eige.europa.eu/content/event/gender-equality-index-launch-conference>

<sup>13</sup> for instance the sample size is too small in some countries to capture violence against specific groups or specific forms of violence

<sup>14</sup> FRA Survey on Gender-based violence against women: <http://fra.europa.eu/en/project/2012/fra-survey-gender-based-violence-against-women>



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data should be disaggregated by gender, age, relationship between perpetrator and victim, type of violence and location, as well as the combination of this data.

Besides the lack of data of data which points at major implementation problems concerning laws on the protection from violence, there is also more and more evidence, that States do not always fulfill their obligations to effectively protect women from violence. According to international human rights standards, States have to exercise due diligence to prevent acts of violence against women, whether those acts are perpetrated by the State or by private persons.<sup>15</sup> This includes the obligation to actively protect women if there are any facts that point to a risk of violence. In reality women are often repeatedly abused by perpetrators previously reported for being violent. In cases of femicide, the perpetrator's intent to commit murder is often announced in form of a threat, but the threat is not always taken seriously by the relevant authorities. Two cases from Austria brought to the attention of CEDAW Committee have shown that perpetrators, who are repeatedly violent and highly dangerous, cannot be stopped by an order to stay away from the victim. In such cases the perpetrator needs to be detained.<sup>16</sup>

The two main arguments of the CEDAW decisions are landmarks in the prevention of violence against women:

- perpetrators' rights cannot supersede women's human rights to life as well as physical and mental integrity; and
- It is not enough to have good laws; they also have to be enforced in each individual case to ensure the protection of women.

The European Court on Human Rights on the case *Opuz vs Turkey* (2009) has taken on the argument of the CEDAW Committee which was an important recognition of the ground breaking work of CEDAW and the tendency of the court, to take the due diligence principle seriously and to hold governments accountable is reflected in several subsequent decisions by the European Court.<sup>17</sup>

This jurisprudence should be included in the training of judges and prosecutors in all countries and in human rights education for other professionals and civil society organisations.

### **Discrimination of women's human rights defenders in the area of violence against women**

Research indicates that States with many women's NGOs have taken more effective steps to counteract violence against women than States with no or few women's groups.<sup>18</sup> Despite evidence of the importance of women's NGOs, many of them still face difficulties and a lack of State support and funding. Sometimes women's NGOs are seen rather as "the enemy of the State" than as a valuable part of civil society. Women's NGOs face difficulties if they are critical of government policies and it is not recognized that to be critical is one of the valuable functions of civil society in a democracy. Feminist and independent women's NGOs have difficulties to get funding, face exclusion or are replaced by government-dependent NGOs. Discrimination against women's NGOs also has the negative consequence that their expertise is lost or hindered and the development towards eliminating violence against women is impeded. This is a waste we cannot afford!

<sup>15</sup> UN Declaration on the Elimination of Violence against Women 1993, § 4c; Council of Europe Istanbul Convention 2011, Article 5, para 2

<sup>16</sup> See CEDAW decisions 5/2005 and 6/2005 concerning Austria

<sup>17</sup> See European Court on Human Rights – Case law in the area of violence against women and their children i.e. *Kontrova vs. Slovakia* (2006), *Opuz vs. Turkey* (2009), *Tomasic vs. Croatia* (2009), *Valiulienė v. Lithuania* (2013)

<sup>18</sup> Johnson, Janet E. / Brunell, Laura (2006): The Emergence of Contrasting Domestic Violence Regimes in Postcommunist Europe, *Policy and Politics* 34 (4): 578:98



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Feminists are concerned with gender equality, the elimination of all form of discrimination and violence against women and the promotion of women's full enjoyment of all human rights, including sexual and reproductive rights. One would think that this was a position perfectly aligned with democratic ideas and thus a very respectable one. Unfortunately, this is still not always the case. Even in countries that call themselves democratic and pluralistic, feminism is not always as respected as other political positions. Even undemocratic politics of the far right are sometimes more accepted than feminist politics, and feminists are defamed and discredited. As a result of the tendencies to discredit feminist approaches, I notice a growing fear of women to call themselves feminist in public, and a pressure to shy away from the term. Attempts to discredit feminism are clearly unacceptable and undemocratic tendencies that we must strongly criticize. We need to defend the right to be a feminist as a human right and we need to support women human rights defenders who face discrimination or even persecution.<sup>19</sup>

It is a promising sign, that in the 57<sup>th</sup> Session of the Commission on the Status of Women 2013 the United Nations members states committed themselves to "Support and protect those who are committed to eliminating violence against women, including women human rights defenders in this regard, who face particular risks of violence."<sup>20</sup>

### Summary recommendations

In order to promote women's human rights and to close implementation gaps the following I propose the following recommendations:

1. Inclusion of independent women's NGOs in decision making bodies such as gender equality or human rights commissions and/or bodies responsible for drafting and implementing National Action Plans against Violence against Women.
2. Adequate funding of independent women's NGOs providing empowering services to women survivors of violence and their children and promoting their access to justice.
3. Realisation of the minimum standards regarding number of specialized women's shelters:
  - 1 place/bed per 10.000 inhabitants and other minimum standards such as
  - one rape crises centre per 200.000 female inhabitants and
  - At least one national women's helpline, 24 hours a day/7days a week and free of charge, per country providing relevant multilingual support.
4. Access of ALL women, including undocumented migrant and asylum seeking women to shelters and to justice; support for the Campaign of WAVE and PICUM to guarantee undocumented migrant women access to their human right to be protected from violence.
5. Accountability of States concerning the obligation to exercise due diligence to prevent violence to protect women and to sanction acts of violence; training of all justice personnel in applying the principle of due diligence to protect women from violence.
6. Monitoring progress in realising women's human rights to live free from violence by providing valid and sound data concerning the implementation of policies and including independent women's NGOs in monitoring bodies.

<sup>19</sup> See the international initiative Defending Rights: <http://www.defendingwomen-defendingrights.org/>

<sup>20</sup> United Nations 57<sup>th</sup> Commission on the Status of Women (2013): Agreed conclusions on the elimination and prevention of all forms of violence against women and girls, New York, [http://www.un.org/womenwatch/daw/csw/csw57/CSW57\\_Agreed\\_Conclusions\\_\(CSW\\_report\\_excerpt\).pdf](http://www.un.org/womenwatch/daw/csw/csw57/CSW57_Agreed_Conclusions_(CSW_report_excerpt).pdf)



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- Promoting the work of women's human rights defenders in all areas, including those promoting sexual rights, including them in decision making bodies and defending their right to not being attacked, discredited or hindered in their work.

Regarding the argument that the economic crises does not allow for adequate funding of services I would like to recall the Beijing Platform for Action Strategic objective E.2. which reads that States should *“Undertake to explore new ways of generating new public and private financial resources, inter alia, through the appropriate reduction of excessive military expenditures, including global military expenditures, trade in arms and investment for arms production and acquisition, taking into consideration national security requirements, so as to permit the possible allocation of additional funds for social and economic development, in particular for the advancement of women.”*

#### CV

**LOGAR Rosa** is Executive Director of the Domestic Abuse Intervention Program Vienna, a victim/survivor service that has been established with the new Domestic Violence Act (1997); she is co-founder of the first women's shelter in Austria (1978) and of the European Network WAVE (Women Against Violence Europe, 1994). She was a member of the Austrian inter-ministerial working group on the new Domestic Violence Act (1997) and other subsequent legislative changes; Selection of international activities: member of the UN Expert Group Meeting *Good practices in legislation on violence against women* (2008); member of the Council of Europe *Task Force to Combat Violence against Women, including Domestic Violence* (2006-2008) and member of the Council of Europe *Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO, 2008 – 2010)*, which drafted the new Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence; coordination of several EU DAPHNE projects including the DAPHNE project PROTECT II (2010-2012) on risk assessment and safety management to protect victims in high-risk situations.

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