

United Nations  Nations Unies

Aide Mémoire

Expert Group Meeting

Good practices in legislation to address harmful practices against women

**United Nations Division for the Advancement of Women
in collaboration with the
United Nations Economic Commission for Africa**

I. Introduction

1. The United Nations Division for the Advancement of Women of the Department of Economic and Social Affairs (UNDAW/DESA), in collaboration with the United Nations Economic Commission for Africa, is convening an expert group meeting on good practices in legislation to address harmful practices against women, to be held at the United Nations Economic Commission for Africa in Addis Ababa, from 25 to 28 May 2009.

2. The expert group meeting is a follow up to an expert group meeting organized by UNDAW/DESA and the United Nations Office on Drugs and Crime (UNODC) in Vienna, from 26 to 28 May 2008, on good practices in legislation on violence against women. That meeting prepared a model framework for legislation on violence against women, including detailed recommendations, commentaries and examples of promising practices. The framework contains two types of recommendations: those that are applicable to all forms of violence against women; and those that are specific to domestic violence or sexual violence. The purpose of this expert group meeting is to further develop the framework by elaborating specific recommendations for legislation on harmful practices against women.

II. Background

3. Harmful practices against women are forms of violence which include female genital mutilation, female infanticide and prenatal sex selection, early marriage, forced marriage, dowry-related violence, acid attacks, crimes against women committed in the name of “honour”, maltreatment of widows and other practices. Such forms of violence against women may involve both the family and the community. Despite initiatives worldwide to eradicate these practices, they persist throughout the world.

4. States have clear obligations under international law to address all forms of violence against women, including harmful practices. States are required to exercise due diligence to prevent acts of violence against women; to investigate such acts and prosecute and punish perpetrators; and to provide redress and relief to victims. The requirement to enact, implement and monitor legislation covering all forms of violence against women, including harmful practices, is set out in international human rights and policy instruments. The international human rights treaty bodies, in particular the Committee on the Elimination of Discrimination against Women, regularly call on States parties, where relevant, to adopt legislation to eliminate harmful (traditional and cultural) practices affecting women. The General Assembly, during the five- year review of the Beijing Platform for Action in 2000, called on governments to develop and fully implement laws and other measures to eradicate harmful customary or traditional practices, including female genital mutilation, early and forced marriage and so-called honour crimes (resolution S-23/3 annex, para.69(e)). Relevant recommendations for action are contained in other policy documents, including General Assembly resolutions 56/128 of 19 December 2001 and 59/165 of 20 December 2004, the agreed conclusions of the Commission on the Status of Women on the elimination of all forms of discrimination and violence against the girl child (2007), resolutions 51/2 and 51/3 of the Commission on the Status of Women in 2007, and resolutions of the former Sub-Commission on the Promotion and Protection of Human Rights.

5. Legal and policy instruments at the regional level also call for the elimination of harmful practices against women, including through legal reform. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa requires States Parties to take all necessary legislative and other measures to eliminate harmful practices (article 5); and to enact legislative measures to guarantee that no marriage should take place without the free and full consent of both parties and that the minimum age of marriage for women is 18 years (article 6). The Protocol on Gender and Development, adopted by the Southern African Development Community (SADC) in August 2008, calls on Member States to enact legislation prohibiting all forms of gender-based violence and to ensure that perpetrators of gender-based violence, including female genital mutilation and all other forms of gender-based violence, are tried by a court of competent jurisdiction. Legal action has also been mandated by the Council of Europe in its Recommendation (2002)5 of the Committee of Ministers to Member States on the protection of women against violence, including with regard to genital mutilation, killings in the name of honour and early marriage.

6. Many States have adopted or revised legislation on harmful practices against women. As at 2006, 15 of the 28 African States where female genital mutilation is prevalent had enacted laws criminalizing the practice. In addition, one State had enacted a health law prohibiting female genital mutilation, two prohibited the practice through ministerial decrees and in one federal State, several states had criminalized the practice. Of the nine States in the Arab Peninsula and Asia where female genital mutilation is prevalent among some groups, two had enacted laws. In addition, ten States in other parts of the world had enacted laws criminalizing the practice. Since 1990, countries such as Morocco and Turkey have removed the defence of "honour" in cases of violence against

women, and countries such as Burkina Faso have introduced forced marriage as a crime in their Penal Codes. There have also been some instances where countries have enacted dedicated laws to address one or a few harmful practices against women, for example, Law No. 3 of 2003 on the Repression of the Practice of Female Genital Mutilation in the Republic of Benin. Bangladesh has adopted the Acid Crime Prevention Act of 2002 and the Acid Control Act of 2002 to address acid attacks, while section 304B of the Indian Penal Code criminalizes “dowry deaths”. The Forced Marriage (Civil Protection) Act of 2007 in the United Kingdom allows courts to issue an order for the purposes of protecting (a) a person from being forced into a marriage or from any attempt to be forced into a marriage; or (b) a person who has been forced into a marriage.

7. However, while progress has occurred, legal responses to harmful practices against women remain piecemeal and inadequate. Even where legislation exists, it is often limited in scope and coverage. Many laws addressing such practices focus on criminalization and do not introduce other relevant provisions such as mandating preventive measures and/or providing for the protection, empowerment and support of victims/survivors.

8. The Secretary-General’s in depth study on all forms of violence against women of 2006 (A/61/122/Add.1 and Corr.1) recommends that States, inter alia: bring national laws, policies and practices into compliance with international commitments; ensure that legislation is in place that adequately addresses all forms of violence against women; act with due diligence to prevent violence against women, investigate such violence, prosecute and punish the perpetrators, and provide access to redress for victims; strengthen prevention efforts that address discriminatory practices and social norms; and remove all laws that discriminate against women and ensure that provisions of multiple legal systems, where they exist, comply with international human rights standards.

9. In response to the Secretary-General’s study, the General Assembly adopted resolution 61/143 of 19 December 2006, calling upon Member States and the United Nations system to intensify their efforts to eliminate all forms of violence against women. General Assembly resolution 63/155 of 18 December 2008 calls on States to continue to develop a more systematic, comprehensive, multisectoral and sustained approach aimed at eliminating all forms of violence against women by using best practices, inter alia, in the field of legislation.

III. Objectives, outcomes and organizational aspects of the expert group meeting

10. In follow-up to the Secretary-General’s study and General Assembly resolutions 61/143 and 63/155, and building upon States’ experiences with legislative frameworks, the Division for the Advancement of Women, in collaboration with the United Nations Regional Commissions, will organize a meeting of experts to analyze different approaches for addressing harmful practices against women, in particular those in the law; assess lessons learned; and identify effective approaches and recommended strategies for legislation on harmful practices against women.

A. Objectives of the expert group meeting

11. The main objectives of the meeting are to:

- Analyze existing approaches, in particular legal approaches, for addressing harmful practices against women;
- Assess lessons learned regarding different approaches to addressing harmful practices against women, including the development and implementation of legislation;
- Identify effective approaches and good practices to address harmful practices against women, with a focus on legislative responses.

B. Expected outcome

12. The expert group meeting will prepare a report that will further develop the 2008 framework for legislation on violence against women by elaborating:

- Recommendations for legislation on specific harmful practices;
- Commentaries explaining the reasons for the recommendations, including a discussion of lessons learned and examples of good practices, in particular those in the law, in support of the recommendations.

C. Methods of work

13. Invited experts will be asked to present papers on laws and related efforts to address harmful practices against women, including an assessment of the effectiveness of those initiatives. The Division for the Advancement of Women will prepare a background paper to support the discussions.

D. Profile of participants

14. The expert group meeting will be attended by approximately fifteen (15) experts on harmful practices against women and legal strategies to address those practices, including lawyers, parliamentarians, judges, community leaders, service providers and activists. A small number of observers from United Nations entities will also attend. Staff of the Division for the Advancement of Women and the United Nations Economic Commission for Africa will support the meeting.

15. The Division for the Advancement of Women will provide travel, accommodation and daily subsistence allowance for invited experts. The United Nations Economic Commission for Africa will host the meeting and provide associated logistical support.

E. Documentation

16. The documentation for the meeting will include papers prepared by the experts and the background paper prepared by the Division. Observers will also have an opportunity to submit papers. The working language of the expert group meeting will be English.