



Hungary's Compliance with the ICCPR: Domestic Violence

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

Hungarian Women's Lobby (HWL)

a non-governmental organization based in Hungary

NANE Women's Rights Association

a non-governmental organization based in Hungary

and

PATENT (People Opposing Patriarchy)

a non-governmental organization based in Hungary

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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates has previously published multiple reports on violence against women as human rights issue, provides consultation and commentary on draft laws on domestic violence, and trains lawyers, police, prosecutors, and judges to effectively implement new and existing laws on domestic violence.

Hungarian Women's Lobby (HWL), established in 2003, is an umbrella organisation advocating for the women's human rights agenda as laid down by international norms. The HWL unites and represents the interests of Hungarian women's organisations with a gender equality and human rights-based agenda. HWL is the Hungarian national coordinator organisation of the European Women's Lobby, the largest umbrella of women's associations in the EU.

NANE Women's Rights Association (NANE), established in 1994, is a grassroots NGO following a human rights approach, providing continuous services for victims of gender based violence, and running short and medium term public education, training and advocacy projects. NANE's mission is to contribute to a world free of any form of gender based violence stemming from, reinforced by, and serving patriarchal notions and goals.

PATENT (People Opposing Patriarchy) (PATENT), founded in 2006, is an NGO with a vision to contribute to a society where the equality of women and LGBT people is a reality. PATENT provides legal and psychological counselling and, in certain cases, legal representation to women and children victims of male violence and to victims of violence and discrimination against LGBT people. The organisation also conducts awareness raising, training activities, as well as lobbying for legal reforms.

EXECUTIVE SUMMARY

1. Domestic violence, rape, sexual assault, sexual harassment, and other forms of violence against women are forms of discrimination against women and violate women's human rights. It violates a woman's rights to life and security of person (Article 6), freedom from torture and ill-treatment (Article 7), equality before the courts (Article 14), equal protection before the law (Article 26), and protection of the family (Article 23), among others under the International Covenant on Civil and Political Rights (ICCPR).
2. Domestic violence is prevalent and often considered a "family matter" by the authorities. An expectation that police will not respond effectively hinders women from reporting domestic violence.
3. Criminal legislation on domestic violence is inadequate in terms of its language and implementation, and for example, requires at least two separate instances of domestic violence to occur within a short timeframe to trigger criminal liability for the specific offense. Court monitoring has also revealed problems among the judiciary in domestic violence cases. Hungary's temporary restraining order is similarly insufficient and provides inadequate protection to victims seeking relief.
4. While resources for victim do exist in Hungary, they are insufficient to meet the needs. For example, the "shelters" that do exist are perceived as not complying with best standards and practices related to services for domestic violence victims.

Hungary fails to uphold its obligations under the International Covenant on Civil and Political Rights

I. Non-discrimination and ill-treatment of women (List of Issues Paragraph 11)

5. The Committee requested that the Hungarian Government "provide information on measures taken to combat violence against women, including domestic violence, and to encourage reporting of such cases."¹ The Sixth Periodic Report lists several pledges contained in a new parliamentary resolution on the national strategy guidelines in relation to the fight against domestic violence,² but in practice little has been done to carry out these pledges. The report further describes two media campaigns intending to encourage victims to report violence and request assistance,³ but these efforts are insufficient.

¹ Human Rights Committee, *List of issues prior to submission of the sixth periodic report of Hungary*, (9 December 2015), UN Doc. CCPR/C/HUN/QPR/6, ¶ 11.

² Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure: Hungary*, (19 January 2017), UN Doc. CCPR/C/HUN/6, ¶ 119.

³ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure: Hungary*. (19 January 2017), UN Doc. CCPR/C/HUN/6, ¶¶ 121-22.

6. Domestic violence and other forms of violence against women are serious problems in Hungary. According to the European Institute for Gender Equality, 27.7% of women in Hungary have experienced physical and/or sexual violence since age 15.⁴ The representative survey of the Fundamental Rights Agency (FRA) of the European Union found that 21% of women in Hungary have experienced physical and/or sexual violence by a partner since the age of 15, and 6% in the past 12 months.⁵ Based on the most recent census data, the latter statistic indicates more than 200,000 women have experienced violence in the past year.⁶ In 2015, the Ministry of Human Capacities registered 2,067 domestic violence-related calls to its 24-hour toll-free hotline.⁷ While Roma women are particularly vulnerable in the context of domestic violence,⁸ this report is intended to provide an assessment of domestic violence in Hungary generally without focusing on any specific group within the country's population.
7. In 2010, the Human Rights Committee expressed concerns about domestic violence in Hungary, including the continuation of gender-based violence against women and sexual harassment, lack of statistical evidence, and lack of specific legislation prohibiting domestic violence and spousal rape.⁹ The Human Rights Committee recommended that Hungary: 1) “improve its research and data collection methods in order to establish the magnitude of the problem, its causes and consequences on women;” 2) “consider adopting specific legislation that prohibits domestic violence and spousal rape;” and 3) “ensure that cases of domestic violence and spousal rape are thoroughly investigated and that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and the victims adequately compensated.”¹⁰
8. Other treaty bodies have expressed similar concerns about the serious domestic violence issues faced by Hungarian women. In 2013, the Committee on the Elimination of Discrimination Against Women expressed concern about 1) the “lack of specific

⁴ European Institute for Gender Equality. *Gender Equality Index*. (2015). Available at: <http://eige.europa.eu/gender-equality-index/2015/domain/violence/HU>.

⁵ See European Union Agency for Fundamental Rights. FRA Violence Against Women Survey. <http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>

⁶ See in Hungarian Judit Wirth and Zsuzsanna Winkler/NANE, “NŐK ELLENI ERŐSZAK az adatok tükrében - FRA-népesség-bűnügyi statisztikák (Violence against women in the light of data – FRA - population-criminal statistics)”. p. 8. Available in Hungarian at: <https://nokjoga.hu/sites/default/files/filefield/nane-fra-nepesseg-enyubs-final-2014-w-w-2015jun19.pdf> pp. 8, 10. (2015)

⁷ United States State Department, *Country Reports on Human Rights Practices for 2016, Hungary, Section 6: Discrimination, Societal Abuses, and Trafficking in Persons*. Available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265428>, 43.

⁸ See The European Roma Rights Center, *Written Comments of the European Roma Rights Centre Concerning Hungary For Consideration by the United Nations Committee on the Elimination of Discrimination against Women at its 39th Session*. Available at: <http://www.errc.org/cms/upload/media/03/7A/m0000037A.pdf>. July 23-August 10, 2007.

⁹ Human Rights Committee, *Concluding Observations: Hungary*, (November 16, 2010), UNDOC CCPR/C/HUN/CO/5, ¶ 11.

¹⁰ Human Rights Committee, *Concluding Observations: Hungary*, (November 16 2010), UNDOC CCPR/C/HUN/CO/5, ¶ 11.

provisions related to other forms of violence” against women, “such as economic and psychological violence and stalking,”¹¹ and 2) insufficient data pertaining to the investigation, enforcement, and prevention of violence cases against women, among other things.¹²

A. Problem: Domestic Violence as a Cultural Norm

9. The Committee requested that the Hungarian Government “provide information on the training of law enforcement and police officials, social workers and medical personnel on how to detect victims of domestic violence.”¹³ Domestic violence in Hungary is deeply rooted in cultural stereotypes and practices.¹⁴ There is a pervasive mentality among women in Hungary that domestic violence is merely a “fact of life.”¹⁵ A shelter worker stated, “Women often tell us at the shelter that a slap or two is nothing.”¹⁶ Moreover, violence is often considered a “family matter” by the general public, law enforcement, and the courts.¹⁷ The FRA survey revealed reasons why women did not contact resources outside of law enforcement. In the survey, the majority of Hungarian women (72%) chose the answer “dealt with it myself/involved a friend/family member” when asked about reasons for not contacting any organization or service *other than the police* following the most serious incident of physical and/or sexual violence by a partner since the age of 15.¹⁸ The proportion making that response was the highest among all the EU countries.

10. Women are unwilling to report instances of domestic violence because there is a perception—and a reality—that police will not respond effectively to the violence.¹⁹ Moreover, victims fear retaliation from their abusers, as do neighbors and family members who know about the abuse but are too frightened to report it.²⁰ Even social

¹¹ The criminal offence of domestic violence contains economic violence and refers to psychological violence in specific contexts. Stalking is a separate criminal offence, with aggravated levels when committed in certain domestic violence contexts.

¹² Committee on the Elimination of Discrimination Against Women, *Concluding Observations: Hungary*, (March 26, 2013), UNDOC CEDAW/C/HUN/CO/7-8, ¶¶ 20.

¹³ Human Rights Committee, *List of issues prior to submission of the sixth periodic report of Hungary*, (9 December 2015), UN Doc. CCPR/C/HUN/QPR/6, ¶ 11.

¹⁴ Human Rights Watch, *Unless Blood Flows*, Available at: https://www.hrw.org/sites/default/files/reports/hungary1113_ForUpload.pdf. 2013. pp. 11.

¹⁵ Human Rights Watch, *Unless Blood Flows*, Available at: https://www.hrw.org/sites/default/files/reports/hungary1113_ForUpload.pdf. 2013. pp. 11.

¹⁶ Human Rights Watch, *Unless Blood Flows*, Available at: https://www.hrw.org/sites/default/files/reports/hungary1113_ForUpload.pdf. 2013. pp. 11.

¹⁷ Human Rights Watch, *Unless Blood Flows*, Available at: https://www.hrw.org/sites/default/files/reports/hungary1113_ForUpload.pdf. 2013. pp. 20.

¹⁸ See European Union Agency for Fundamental Rights. FRA Violence Against Women Survey. <http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>

¹⁹ Human Rights Watch, *Unless Blood Flows*, Available at: https://www.hrw.org/sites/default/files/reports/hungary1113_ForUpload.pdf. 2013. pp. 11.

²⁰ Human Rights Watch, *Unless Blood Flows*, Available at: https://www.hrw.org/sites/default/files/reports/hungary1113_ForUpload.pdf. 2013. pp. 11.

workers at family welfare and child welfare services often report receiving threatening visits or calls from abusers.²¹ The FRA survey revealed reasons why women did not contact the police. In the survey, the majority of Hungarian women (59%) chose the answer “dealt with it myself/involved a friend/family matter” when asked about reasons for not contacting *the police* following the most serious incident of physical and/or sexual violence by a partner since the age of 15. The second most frequent answer was fear of the offender or reprisal (22%), followed by “did not think they would do anything” (17%). The response “did not think they could do anything” also garnered 11% of answers.

11. When asked about which organizations or services they contacted as a result of the most serious incident of physical and/or sexual violence by a partner since the age of 15, Hungarian women referred to the police (14%) and to doctors, health centers, or other health care institutions (14%) in equal proportion as the most frequent ones.²² On a related note, 84% of Hungarian women would find it acceptable if doctors routinely asked women with certain injuries and whether these have been caused by violence. This data indicates the need for and attention to a more conscious health care response that appropriately screens, documents, and refers.

B. Problem: Flaws in Legislation on Domestic Violence

12. The Committee requested that the Hungarian Government “clarify the manner in which domestic violence is criminalized in the Criminal Code.”²³ The Committee further requested “information on measures taken to secure the reporting and criminal investigation of all cases of domestic violence and the prosecution and sanction of those responsible.”²⁴ Since its last review by the Human Rights Committee in 2010, Hungary has taken some steps toward curbing domestic violence with respect to its obligations under the ICCPR. As the Sixth Periodic Report notes,²⁵ on July 1, 2013, Hungary introduced legislation that criminalized domestic violence.²⁶ However, the legislation is insufficient and problematic in its language and implementation, as described below.

²¹ Human Rights Watch, *Unless Blood Flows*, Available at: https://www.hrw.org/sites/default/files/reports/hungary1113_ForUpload.pdf, 2013. pp. 11.

²² See European Union Agency for Fundamental Rights. FRA Violence Against Women Survey. <http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>

²³ Human Rights Committee, *List of issues prior to submission of the sixth periodic report of Hungary*, (9 December 2015), UN Doc. CCPR/C/HUN/QPR/6, □ 11.

²⁴ Human Rights Committee, *List of issues prior to submission of the sixth periodic report of Hungary*, (9 December 2015), UN Doc. CCPR/C/HUN/QPR/6, □ 11.

²⁵ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure: Hungary*, (19 January 2017), UN Doc. CCPR/C/HUN/6, □ 125.

²⁶ See CRIMINAL CODE §212/A. (Hungary). (2013).

13. Specifically, the law necessitates that the victim cohabitate or have children with her abuser to prompt prosecution,²⁷ as noted in the Sixth Periodic Report. It also requires at least two separate instances of domestic violence to occur within a short timeframe to trigger criminal liability for the specific offense.²⁸ This means that single incidents of violence do not fall within the scope of the domestic violence offense and must be adjudicated under other provisions, like the crime of simple battery.²⁹ Public prosecution is unavailable for many smaller criminal offenses, and thus victims must privately prosecute, an action most victims are unwilling or lack the resources to do. To pursue legal action in other cases, the victim must file a private motion, a statement that the victim wishes the perpetrator to be held accountable.
14. Another gap in the current law is that sexual violence is not included in the offense of domestic violence.³⁰ An offender who rapes his partner is not considered to have committed domestic violence under the language of the law. Sexual violence is separately accounted for within the laws pertaining to rape, which carries a greater sentence than domestic violence.³¹ Basic, or non-aggravated, cases of sexual coercion and sexual violence require a private motion.³² If the act is committed against a relative or by abusing the position of power and influence of the perpetrator, however, these are considered aggravated cases not requiring a private motion.²⁵ At the same time, if the intimate partners are not considered relatives by law, the private motion of the victim is required to start procedures against the abuser.³³ Furthermore, “sexual morals” is still referred to in the title of the respective section of the law.
15. In 2009, Hungary adopted a law allowing restraining orders for victims of domestic violence; however, the police-issued “temporary preventive restraining order” can only be valid for 72 hours. This can be extended into a “preventive restraining order” only by the court and can last only up to 60 days and is not renewable.³⁴ A victim can re-apply for a temporary order only after another, separate domestic violence incident has occurred.³⁵ Also, the law on restraining orders does not apply to persons who are not considered relatives by law.³⁶

²⁷ See CRIMINAL CODE §212/A. (Hungary). (2013).

²⁸ See CRIMINAL CODE §212/A. (Hungary). (2013).

²⁹ CRIMINAL CODE §164 (Hungary). (2012).

³⁰ CRIMINAL CODE §197 (Hungary). (2012).

³¹ CRIMINAL CODE §197 (Hungary).

³² CRIMINAL CODE §207 (Hungary).

²⁵ CRIMINAL CODE §196, 197 (Hungary).

³³ CRIMINAL CODE §207 (Hungary).

³⁴ Act on Restraining Orders due to Violence among Relatives, § 6(3-4), §15(6) and §16(2). (2009)

³⁵ Act on Restraining Orders due to Violence among Relatives, § 6(3-4), §15(6) and §16(2). (2009)

³⁶ Act on Restraining Orders due to Violence among Relatives, § 6(3-4), §15(6) and §16(2). (2009)

16. As the Sixth Periodic Report mentions, in 2014, Hungary signed the Istanbul Convention on preventing and combating violence towards women and domestic violence.³⁷ However, Hungary has yet to ratify this treaty and commit to incorporating its provisions into domestic law,³⁸ an important step to change the cultural norm of domestic abuse and protecting women victims of violence. The Sixth Periodic Report states that the ratification process “is permanently under way, under the coordination of the Ministry of Justice,” but offers no commitments or timeline for ratification.³⁹
17. Additionally, justice systems actors, including law enforcement and the judiciary, are largely ineffective in pursuing and prosecuting abusers, which deters victims from reporting and fosters a distrust in authorities.⁴⁰ From 2015 to 2016, the PATENT association conducted a Court Watch Program where it used monitors to observe and document civil and criminal judicial proceedings involving domestic violence.⁴¹
18. Court monitoring found overall judicial insensitivity to victims, often resulting in blaming and distrust of those victims. For example, judges, at times, found fault with victims for returning to the abusive situation or blamed them for failing to protect their children from witnessing or experiencing violence by the abuser.⁴² One monitor documented how a judge stated that “family problems” should not be resolved at court and that “s/he could not do anything for battered women because they kept going back or did not leave their partner at all.”⁴³ One judge asked a victim, “Were you forced into this relationship?” Another monitor reported that the judge “did not seem to believe the wife (victim/witness).” This last case also illustrates the behavior of judges who allow the defendant’s lawyer to belittle the victim. The monitor described how the judge “was nice to the defendant. The judge did not even try to restrain the defendant’s lawyer when s/he asked humiliating questions, such as ‘Why didn’t you leave the room once your husband had told you to get out?’⁴⁴

³⁷ *It has taken three years but the Istanbul Convention will soon be ratified*, Hungarian Spectrum (Feb. 18, 2017). Available at: <http://hungarianspectrum.org/tag/istanbul-convention/>.

³⁸ *It has taken three years but the Istanbul Convention will soon be ratified*, Hungarian Spectrum (Feb. 18, 2017). Available at: <http://hungarianspectrum.org/tag/istanbul-convention/>.

³⁹ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure: Hungary*, (19 January 2017), UN Doc. CCPR/C/HUN/6, ¶ 120.

⁴⁰ See PATENT Association, NANE Association System Failure: *Male violence against women and children as treated by the legal system in Hungary today*, Available at: <http://www.nokjoga.hu/sites/default/files/filefield/system-failure-2011.pdf>. 2011.

⁴¹ PATENT Association, *Monitoring How Courts Treat Domestic Violence in Hungary: A Court Watch Program*, Available at: http://patent.org.hu/dokumentumok/kozpolitika_kutatas/zarotanutmany_ang_webre.pdf. 2016. pp.12.

⁴² PATENT Association, *Monitoring How Courts Treat Domestic Violence in Hungary: A Court Watch Program*, Available at: http://patent.org.hu/dokumentumok/kozpolitika_kutatas/zarotanutmany_ang_webre.pdf. 2016. pp.12.

⁴³ PATENT Association, *Monitoring How Courts Treat Domestic Violence in Hungary: A Court Watch Program*, Available at: http://patent.org.hu/dokumentumok/kozpolitika_kutatas/zarotanutmany_ang_webre.pdf. 2016. pp.12.

⁴⁴ PATENT Association, *Monitoring How Courts Treat Domestic Violence in Hungary: A Court Watch Program*, Available at: http://patent.org.hu/dokumentumok/kozpolitika_kutatas/zarotanutmany_ang_webre.pdf. 2016. pp.16.

19. Court monitoring also revealed that judges promote reconciliation in domestic violence cases, including in criminal proceedings involving physical violence. The monitor documented how the judge refused them entry and instead recommended the offender and victim come to “an understanding and make peace.”⁴⁵
20. Finally, court monitoring also revealed a judicial lack of understanding of the dynamics of domestic violence and best practice standards. For example, monitoring revealed how judges often see domestic violence as conflict between two equal parties.⁴⁶ One monitor documented how misperceptions can lead judges to overlook long-term violence. In this case, the judge instructed the parties not to talk about anything but what happened on the “given day and hour. S/he does not want to hear about previous occasions or the battering that happened later than what is the subject of the case. . . . Even though the police record s/he read out stated that there were other occasions, too, both before and after the one in question.”⁴⁷ Another judge’s behavior revealed misperceptions about injuries and the harms of domestic violence. In this case, the judge asked the victim, “How come none of your bones were broken if you weighed only 50 kilograms at that time?”⁴⁸
21. The experience of women’s rights NGOs providing legal aid shows that legislation, courts, and child protection authorities do not recognize nor take into account domestic violence in custody and visitation cases; thus, forced visitation of children with the abusive parent is common.⁴⁹ NANE Women’s Rights Association conducted research in the field, including quantitative and qualitative data collection. The research is ongoing, but preliminary results show that the visitation rights of the father are considered paramount by the authorities, even where it is apparent that the father is a risk factor to the child. In most cases, the authorities’ opinions overrule both the mother and child’s experience, and abuse is considered as “mutual conflict.” The abuse is not pronounced in child custody litigation, “because” (as argued by them) it was against the partner or happened in the past.⁵⁰

⁴⁵ PATENT Association, *Monitoring How Courts Treat Domestic Violence in Hungary: A Court Watch Program*, Available at: http://patent.org.hu/dokumentumok/kozpolitika_kutatas/zarotanutmany_ang_webre.pdf. 2016. pp.14.

⁴⁶ PATENT Association, *Monitoring How Courts Treat Domestic Violence in Hungary: A Court Watch Program*, Available at: http://patent.org.hu/dokumentumok/kozpolitika_kutatas/zarotanutmany_ang_webre.pdf. 2016. pp. 21.

⁴⁷ PATENT Association, *Monitoring How Courts Treat Domestic Violence in Hungary: A Court Watch Program*, Available at: http://patent.org.hu/dokumentumok/kozpolitika_kutatas/zarotanutmany_ang_webre.pdf. 2016. pp. 16.

⁴⁸ PATENT Association, *Monitoring How Courts Treat Domestic Violence in Hungary: A Court Watch Program*, Available at: http://patent.org.hu/dokumentumok/kozpolitika_kutatas/zarotanutmany_ang_webre.pdf. 2016. pp.16.

⁴⁹ See Hungarian Women’s Lobby and the European Roma Rights Centre, *Alternative report submitted to the UN CEDAW Committee for consideration in relation to the examination of the combined seventh and eighth periodic reports of Hungary*, Available at: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/HUN/INT_CEDAW_NGO_HUN_13260_E.pdf, January 2013.

⁵⁰ Personal Communication from NANE and PATENT to The Advocates for Human Rights, Feb. 12, 2018 (on file with authors).

22. At the same time, there is a specific offence in the Criminal Code on “barring/obstructing visitation,” which is punishable by one year of imprisonment.⁵¹ The law does not refer to a history or occurrence of domestic violence as an exemption from this offence. Thus, a parent seeking to protect the child from visitation with the abusive parent may automatically fall under the scope of this offence if the abusive parent has visitation rights, which is in the overwhelming majority of the cases. Furthermore, both the court and guardianship authority may oblige the parents to attend mediation in order to “establish proper cooperation” between the parents and guarantee the visitation rights of the separated parents.⁵² These provisions also do not refer to domestic violence excluding it from obligatory mediation.

C. Problem: Lack of Resources Available to Victims of Domestic Violence

23. The Committee requested that the Hungarian Government provide information “on the sufficiency of the number of State-run shelters for victims” of domestic violence.⁵³ The Sixth Periodic Report mentions “[a] network of [16] shelters specifically for victims of domestic violence operat[ing] in Hungary.”⁵⁴

24. Resources for victims of domestic violence do exist in Hungary, but they are insufficient to meet actual needs. Shelters, for example, are crucial to state protection for victims of domestic violence. However, according to the Ministry of Human Resources, there are only 16 shelters with 127 beds total in the entire country.⁵⁵ Of those beds, 98 are available to provide immediate accommodation and complex care for abused individuals and families for up to 90 days.⁵⁶ The other 29 beds are located at a secret address and available for women who are at high risk of serious harm and allow a maximum stay of 6 months.⁵⁷ According to women’s human rights NGOs, these “shelters” do not fulfill basic safety requirements and do not comply with best standards and practices related to services for domestic violence victims, such as trainings, protocols, a victim-centered approach, risk-assessment, cooperation with women’s rights NGOs. Abusers regularly

⁵¹ CRIMINAL CODE §210. (Hungary).

⁵² See CODE CIVIL art. 4:177 and art. 4:172 (Hungary)

⁵³ Human Rights Committee, *List of issues prior to submission of the sixth periodic report of Hungary*, (9 December 2015), UN Doc. CCPR/C/HUN/QPR/6, ¶ 11.

⁵⁴ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure: Hungary*, (19 January 2017), UN Doc. CCPR/C/HUN/6, ¶¶ 128-129.

⁵⁵ United States State Department, *Country Reports on Human Rights Practices for 2016, Hungary, Section 6: Discrimination, Societal Abuses, and Trafficking in Persons*. Available at:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265428>, 43.

⁵⁶ United States State Department, *Country Reports on Human Rights Practices for 2016, Hungary, Section 6: Discrimination, Societal Abuses, and Trafficking in Persons*. Available at:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265428>, 43.

⁵⁷ United States State Department, *Country Reports on Human Rights Practices for 2016, Hungary, Section 6: Discrimination, Societal Abuses, and Trafficking in Persons*. Available at:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265428>, 43.

find the “secret” shelters and go there to intimidate their ex-partners, children, and the workers; no appropriate security is installed in the majority of these places.

25. In addition to shelters, according to official reports, the Ministry of Human Resources also operates six halfway houses, which provide long-term housing opportunities (for a maximum of five years) and professional assistance for families that have graduated from shelters in order to prevent secondary victimization.⁵⁸ Despite these efforts, women's rights NGOs allege that services for domestic violence survivors are not transparent and either operate with limited capacity or do not meet international standards of good practice.⁵⁹

IV. Recommendations

26. This report suggests the following recommendations for the Government of Hungary:

- Amend the Criminal Code so the definition of domestic violence includes all acts of: physical violence, including physical harm, bodily injury or assault; sexual violence; stalking and harassment; the infliction of fear of imminent physical harm, bodily injury, or assault; and coercive control, i.e. psychological and economic violence that is part of a pattern of domination through intimidation, isolation, degradation, and deprivation, as well as physical assault.
- Amend the Criminal Code and Act on Restraining Orders to expand the scope of domestic violence victims to include and protect all victims, including who do not cohabit or have children with their abuser, or not considered as relatives (e.g. intimate partners), and expand the period of the ban on contact for as long as needed.
- Amend criminal and procedural legislation to ensure that domestic violence constitutes a crime and is subject to public prosecution with penalties commensurate with or greater than other violent offenses.
 - Criminal penalties should be increased for repeated domestic violence offenses, even if they involve low-level injuries.
 - Primary responsibility for initiating and carrying out prosecution should rest with authorities and not with victims of domestic violence.
 - Laws should omit provisions that require more than one incident of violence to trigger criminal liability for domestic violence.
- Amend legislation to ensure that rape and acts of sexual violence are not conditional to private motion. Primary responsibility for initiating and carrying

⁵⁸ United States State Department, *Country Reports on Human Rights Practices for 2016, Hungary, Section 6: Discrimination, Societal Abuses, and Trafficking in Persons*. Available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265428>, 43.

⁵⁹ United States State Department, *Country Reports on Human Rights Practices for 2016, Hungary, Section 6: Discrimination, Societal Abuses, and Trafficking in Persons*. Available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265428>, 43.

out prosecution should rest with authorities and not with victims of domestic violence. Repeal reference to ‘sexual morals’ from legislation.

- Amend legislation to ensure that the Act on Restraining Orders between relatives provide protection to all potential victims, allows for extension of orders, and provides protection for a sufficient duration of minimum one year but preferably for as long as needed.
 - Ensure that statistics on the number of issued temporary preventive restraining and preventive restraining orders, as well the number of refused claims, are collected systematically and made public.
 - Adopt legislation to ensure the violation of the emergency or long-term order for protection is a crime.
- Train members of the law enforcement and judiciary on the dynamics of domestic violence and best practice standards on responding to domestic violence. Such trainings should be led by or done in consultation with organizations that serve victims of domestic violence and comport with international human rights standards. To ensure consistency for the law enforcement response, provide adequate trainings in relation to the application of legislative norms on restraining orders.
- Give due attention to the role of the health care sector in prevention of and response to domestic violence; and increase the capacity of health care personnel for this purpose.
- Integrate court monitoring into university and vocational curricula to build the capacity of independent monitors of the judiciary.
- Introduce legislative and other measures as well as related capacity building of professionals to ensure that history of domestic violence – even if not prosecuted – is taken into due account in decisions about custody and visitation rights and that the practice of forced visitation is eliminated.
- Prohibit the application of mediation in cases of domestic violence, both in criminal and civil/child custody proceedings.
- Ratify the Istanbul Convention without delay and take measures to transpose its provisions into domestic law and policy.
- Increase support to NGOs that provide shelter, services, and resources to victims of domestic violence and their children, and at the same time guarantee a quality assurance of all the provided services, in order to comply with respective international human rights framework and standards.
- Substantively involve women’s right NGOs dealing with the issue of violence against women and domestic violence in the preparation, implementation, as well as monitoring and evaluation of related legislative and policy measures.