



POLAND

Compliance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Submitted by The Advocates for Human Rights,
a non-governmental organization in special consultative status with ECOSOC since 1996

and

Women's Rights Center

**68th Session of the Committee Against Torture
11 November-6 December 2019**

Submitted June 22, 2019

The Advocates for Human Rights (“The Advocates”) is a volunteer-based non-governmental 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’ Women’s Human Rights Program has published 25 reports on violence against women as a human rights issue, frequently provides consultation and commentary on drafting laws on domestic violence, and trains lawyers, police, prosecutors, and judges to effectively implement new and existing laws on domestic violence. The Advocates also provides legal services to low-income asylum seekers in the Upper Midwest of the United States.

Women’s Rights Centre works for equal status of women and men in public and private life. Women’s rights are an inseparable part of fundamental human rights. Any kind of violence against women breaches international law on human rights, no matter if performed by an individual, social group or a government. We dedicate our work to gender equality and empowering women. To protect and promote women’s rights we provide legal, psychological and educational help for violence and discrimination victims. We organize regular meetings and workshops on women’s rights, disseminate information published by the Foundation, as well as 24-hour helpline for women. Our work stands in line with Sustainable Development Goals promising advances in women’s rights and gender equality.

EXECUTIVE SUMMARY

1. Domestic violence against women is widespread in Poland. Approximately 1 in 5 Polish women have experienced physical or sexual abuse from a current or former partner or other individual and 37% of women have experienced psychological abuse by their current or former partner.¹ An estimated 500 women die each year in Poland due to domestic violence, and one Polish NGO stakeholder estimated that 90% of these murders are preventable if better tools to combat domestic violence were in place.² Publicly available information generated by the Polish government regarding domestic violence is limited. According to Poland's Ombudsman for Human Rights, in 2017, police reported more than 165,000 cases of domestic violence and that 73% of victims in those cases were women. The Ombudsman states, however, that these figures dramatically underestimate the actual prevalence of domestic violence. Representatives of NGOs working on domestic violence estimate the rate of domestic violence to be closer to approximately 1 million incidents annually.³
2. Despite some attempts at reform, Poland is not effectively addressing the widespread and longstanding problem of domestic violence. Individuals continue to lack adequate protection from these human rights abuses. Immediate steps are necessary to adequately protect victims and hold perpetrators accountable. Traditional patriarchal attitudes regarding the primary importance of the family unit and women's place in the family and society are contributing to a rollback of the limited progress that had been made in recent years. The current government in Poland does not actively counter such attitudes, including the notion that victims of domestic violence should remain in the home with the abuser to preserve the family unit.
3. This report sets out the situation of domestic violence in five sections, including: relevant legislation and its implementation; support and services for victims; government funding for victim services; training and public education, and; the role of the Ombudsperson. The authors used desk research and interviews with stakeholders and civil society to inform this report. This report keeps interviewee names confidential for purposes of security. This report makes recommendations in regard to amendments to Poland's legislation, systems actors' implementation of laws and policies, government support for victim services, and the role of the Ombudsperson.

Poland fails to uphold its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

¹ European Union Agency for Fundamental Rights, *Violence Against Women: an EU-wide Survey. Main Results Report* (Luxembourg: Publications Office of the European Union, 2015), 28.

² Interview with KW, NGO stakeholder, April 19, 2019.

³ Letter from Ombudsman Adam Bodnar to Mateusz Morawiecki, Prime Minister (January 1, 2019) (on file with authors).

4. Poland ratified the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (“the Convention”) on July 26, 1989.⁴ The Committee Against Torture (the “Committee”) has indicated that domestic violence can fall within the purview of prohibited torture under the Convention.⁵ Specifically, the Committee has said:

. . . that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State’s indifference or inaction provides a form of encouragement and/or de facto permission. The Committee has applied this principle to States parties’ failure to prevent and protect victims from gender-based violence, including rape and domestic violence.⁶

5. The Committee has recognized State party obligations to report on violence against women by private actors and the measures taken to prevent and punish such violence,⁷ ensure adequate care and protection for victims to avoid re-traumatization during legal procedures,⁸ provide adequate legal aid to victims lacking the necessary resources to bring complaints and make claims for redress,⁹ take measures to protect victims against intimidation and retaliation “at all times before, during and after judicial, administrative or other proceedings that affect the interests of victims,”¹⁰ and not impede the enjoyment of the right to redress through, for example, “evidential burdens and procedural requirements that interfere with the determination of the right to redress” or the “failure to provide sufficient legal aid and protection measures for victims.”¹¹
6. Pursuant to Article 19 of the Convention, Poland submitted its seventh periodic report on February 20, 2018. In its Concluding Observations on Poland’s combined fifth and

⁴ United Nations, “Depositary: Status of Treaties” accessed June 11, 2019,

https://treaties.un.org/Pages/ViewDetails.aspx?src=treaty&mtdsg_no=iv-9&chapter=4&lang=en

⁵ United Nations Committee Against Torture (CAT), *General Comment No. 2 - Implementation of Article 2 by State Parties*, (January 24, 2008), U.N. Doc. CAT/C/GC/2, ¶18.

⁶ Id.

⁷ Id. ¶ 22.

⁸ United Nations Committee Against Torture (CAT), *General Comment No. 3 - Implementation of Article 14 by State Parties*, (December 13, 2012), U.N. Doc. CAT/C/GC/3, ¶ 21, 33.

⁹ Id. ¶ 30.

¹⁰ Id. ¶ 31.

¹¹ Id. ¶ 38.

sixth reports in 2013, the Committee noted challenges with Poland’s administration and handling of domestic violence issues.¹² The Committee included a number of recommendations for Poland to combat domestic violence. One such recommendation was to codify domestic violence and marital rape as separate specific offenses under Polish criminal law.¹³ The remaining recommendations addressed: enforcement and other mechanisms to protect victims: complaint procedures for domestic violence victims; the investigation and prosecution of incidences of domestic violence, and; access to restraining orders, shelters, and legal services for victims.¹⁴ At the same time, the Committee commended Poland for creating the National Emergency Service for Victims of Domestic Violence, also known as the “Blue Line.”¹⁵

7. Domestic violence is prevalent in Poland, with estimates as high as one million incidents of domestic violence annually. The government, however, does not collect or make public adequate data on domestic violence. According to the European Institute for Gender Equality, little official data is available for most measures of intimate partner violence, and most of the data that is collected is not publicly reported by the responsible government agencies.¹⁶ In a recent letter to the Government Plenipotentiary, Ombudsman Bodnar urged the Polish Government to collect and annually evaluate statistics on domestic violence across a number of categories, citing the EIGE report.¹⁷

I. Legal Reforms and State Actors’ Implementation of Measures to Address Domestic Violence Remain Inadequate to Protect Victims and Hold Offenders Accountable. (Article 2, LOIPR paragraph 5)

8. In its List of Issues Prior to the Submission of the Seventh Periodic Report of Poland, the Committee requested that, “[I]n the light of the Committee’s previous concluding observations,” Poland “provide updated information on the legislative, administrative and other measures taken to eliminate all forms of violence against women, including domestic violence and marital rape.”¹⁸ The Committee also asked Poland to provide:
 - Updated information on the protection and support services available to victims of gender-based violence in the State party.¹⁹
 - A description of the results of the National Programme for the Prevention of Domestic Violence for the period 2006-2016.²⁰

¹² United Nations Committee Against Torture (CAT), *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Poland*, (Dec. 23, 2013), U.N. Doc. CAT/C/POL/CO/5-6.

¹³ *Id.* ¶ 22.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ European Institute for Gender Equality, *Data collection on Intimate Partner Violence by the Police and Justice Sectors: Poland* (July 26, 2018).

¹⁷ Letter from Ombudsman Adam Bodnar to Adam Lipinski, Government Plenipotentiary (February 19, 2019) (on file with authors).

¹⁸ United Nations Committee Against Torture (CAT), *List of Issues Prior to Submission of the Seventh Periodic Report of Poland*, (January 12, 2016), U.N. Doc. CAT/C/POL/QPR/7, ¶ 5.

¹⁹ *Id.*

²⁰ *Id.*

- Statistical data, disaggregated by age and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of gender-based violence since the consideration of the combined fifth and sixth periodic reports of Poland in 2013.²¹
9. In response to the Committee’s requests, the Polish government described a number of measures and legal reforms to combat domestic violence.²² Poland’s reported efforts include:
- Poland ratified the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the “Istanbul Convention”) in 2015;²³
 - Poland’s Office of the Commissioner for Equal Treatment conducted a project entitled “Rights of Sexual Crimes Victims - New System Approach, Flow of Information, Trainings” from 2013 to 2015 to assist Polish institutions’ efforts to recognize and develop anti-domestic violence programs;²⁴
 - Poland’s chief of police introduced guidelines for responding to victims of sexual crimes after developing the framework with consultation of the police, prosecutors office, and experts with NGOs;²⁵
 - The Government Representative for Equal Treatment of Poland began a media campaign in 2016 with the goal “to disseminate a message emphasizing zero tolerance toward sexual violence against women and debunking untrue and harmful theories and stereotypes concerning sexual violence,”²⁶ which included 210 twenty second radio spots aired on Polish Radio 1 and RMF FM between November 8-28, 2016 and a webpage banner on www.onet.pl;²⁷
 - Poland officially continues the National Programme Against Domestic Violence, a multi-ministry effort through which it contends that “all levels of public administration are obliged to implement long-term actions to limit violence, stress efficient protection and assistance to victims of violence, better access to institutions providing support to victims of violence, with information booklets published.”²⁸ According to the Polish government, this program coordinates studies and reports concerning domestic violence in Poland, coupled with a media campaign and training for first responders to create local anti-violence networks.²⁹ Additionally, “[v]ictims of violence receive help in consultation units, centres of

²¹ Id.

²² United Nations Committee Against Torture (CAT), *Seventh Periodic Report Submitted by Poland Under Article 19 of the Convention, due in 2017*, (February 20, 2018), U.N. Doc. CAT/C/POL/7.

²³ Council of Europe, The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, 2014.

²⁴ United Nations Committee Against Torture (CAT), *Seventh Periodic Report Submitted by Poland Under Article 19 of the Convention, due in 2017*, (February 20, 2018), U.N. Doc. CAT/C/POL/7 ¶ 29.

²⁵ Id.

²⁶ Id. ¶ 31.

²⁷ Id. ¶ 31.

²⁸ Id. ¶ 33.

²⁹ Id. ¶ 34–35.

support, homes for mothers with children and pregnant women, crisis intervention centres run and financed by local authorities. Other forms include: crisis intervention and support, protection against further harm by restraining orders and forceful separation, safe shelter in specialised centres of support for victims of domestic violence or assistance to victims in obtaining independent accommodation;”³⁰

- The Polish government reportedly funds 35 domestic violence support centers to assist local authorities to run shelters for victims and children.³¹ These centers provide counseling, room, and board along with assisting victims with local NGOs, the police, and judiciary.³²

10. The Polish Public Prosecutor’s Office also has reportedly undertaken several domestic violence initiatives such a pro bono activities and legal advice session for victims of violence, including domestic violence.³³ The Prosecutor’s Office also maintains information on its website to assist victims of crimes, including domestic violence.³⁴

11. Despite some efforts to combat the problem by the Polish government, the realities of Poland’s response to domestic violence fall far short of the promise of earlier reforms. Significant challenges remain in implementing Poland’s laws and programs in order to protect victims and hold perpetrators accountable, and under the current government, prior progress is being reversed.

12. Poland adopted the Act on Preventing Domestic Violence on July 29, 2005.³⁵ While its adoption was a significant step toward improving protections for victims, significant deficiencies remain in the law itself that require amendments to adequately address this problem.³⁶ For example, the act limits the definition of domestic violence to the abuse of “family members,” which includes only a spouse, ascendant, descendant, sibling, relative by marriage in the same line or degree, an adopted relation and their spouse or individuals cohabiting or sharing a household.³⁷ Consequently, unmarried partners are not included in this definition and therefore the protection of the law. As a result, the government’s statistical reporting of domestic violence in Poland is incomplete as it does not include intimate partner violence.³⁸

³⁰ Id. ¶ 36.

³¹ Id. ¶ 39

³² Id. ¶ 39

³³ Id. ¶ 41–42.

³⁴ Id. ¶ 43.

³⁵ Act of 29 July 2005 on Counteracting Family Violence, Dz.U. No 180, item 1493 (2005).

³⁶ Amicus curiae brief prepared by the Helsinki Foundation for Human Rights in the case of *A.K. v. Poland* (*Application no. 904/18*), available at http://beta.hfhr.pl/wp-content/uploads/2019/01/A.-K.-p.-Polsce-amicus_EN.pdf

³⁷ Act of 6 June 1997, Criminal Code Dz. U. [Journal of Laws], pos. 1600 (2018) (Warsaw).

³⁸ Letter of the Commissioner for Human Rights to the Minister for Family, Labor and Social Policy (November 22, 2018) Ref No. III.518.21.2018.JA, available at <https://www.rpo.gov.pl/sites/default/files/Wyst%C4%85pienie%20do%20MRPiPS%20w%20sprawie%20danych%20statystycznych%20dotycz%C4%85cych%20przemocy%20w%20zwi%C4%85zkach.pdf>

13. Pursuant to the Act on Prevention of Domestic Violence, the “Blue Card” procedure should be utilized whenever there is a reasonable suspicion of domestic violence.³⁹ The Blue Card program, introduced in 1998, requires police to complete a four-part document that includes a report of the incident and home intervention, the provision of information about local social service resources to the victim, and a request for help that the victim can choose to sign. This approach, however, has not resulted in consistent enforcement and prosecutions.⁴⁰ For example, in 2016, police officers initiated 10,689 cases with an indictment against the alleged perpetrator, while at the same time refusing to initiate investigations in 13,876 cases and discontinuing 15,391 additional investigations.⁴¹ During the same year, only 2,551 individuals were sentenced to imprisonment for crimes relating to domestic violence out of 14,914 accused.⁴²
14. Recent developments indicate that the government’s activities are weakening, not strengthening, protections against domestic violence. On December 31, 2018, the Ministry of Family, Labor and Social Policy published proposed legislation that would exempt victims of single instances of domestic violence from protection under the law and allow law enforcement to intervene only in the case of repeated abuse.⁴³ Additionally, the proposal would have amended the Blue Card procedure to require additional consent of the victim in order for law enforcement to take action.⁴⁴ Given that 75% of domestic violence victims in Poland do not seek assistance,⁴⁵ these measures would have considerably decreased the safety of Polish women. While the Prime Minister ultimately blocked this proposed amendment,⁴⁶ its introduction indicates the risks that jeopardize women’s safety in the current context.
15. The Polish government’s intentions with respect to domestic violence laws lack transparency. One NGO stakeholder reports that, twice in the past year, legislation to change domestic violence laws had been proposed or filed and, but for leaks to the media, the public would not have known of these proposals.⁴⁷ The first of these leaks

³⁹ Act of 29 July 2005 on Counteracting Family Violence, Dz.U. No 180, item 1493, Art. 9d, ¶ 2 (2005).

⁴⁰ Amicus curiae brief prepared by the Helsinki Foundation for Human Rights in the case of *A.K. v. Poland* (*Application no. 904/18*), available at http://beta.hfhr.pl/wp-content/uploads/2019/01/A.-K.-p.-Polsce-amicus_EN.pdf

⁴¹ Ministry of Family, Labor, and Social Policy, *Report on the Implementation of the National Program for the Prevention of Domestic Violence for 2014-2020*, available at https://www.ms.gov.pl/Data/Files/_public/sprawozdanie-za-2016-r_.pdf

⁴² *Id.*

⁴³ James Rothwell, *Poland Drops Plan to Legalise ‘One-Off’ Cases of Domestic Violence*, *The Telegraph*, January 2, 2019, <https://www.telegraph.co.uk/news/2019/01/02/poland-drops-plan-legalise-one-off-cases-domestic-violence/>

⁴⁴ *Id.*

⁴⁵ “Polish Family Free of Violence” for Operational Program PL 14 “Preventing domestic violence and gender violence”, available at https://www.gov.pl/documents/1048151/1060973/DPS_przemoc_Badania_por%C3%B3wnawczo-diagnoza_skali_wyst%C4%99powania_przemocy_w_rodzinie_w%C5%9Br%C3%B3d_os%C3%B3b_doros%C5%82ych_oraz_dzieci_z_podzia%C5%82em_na_poszczeg%C3%B3lne_formy_przemocy.pdf/a364db1f-0078-1ff7-97bd-61e173110ef3

⁴⁶ James Rothwell, *Poland Drops Plan to Legalise ‘One-Off’ Cases of Domestic Violence*, *The Telegraph*, January 2, 2019, <https://www.telegraph.co.uk/news/2019/01/02/poland-drops-plan-legalise-one-off-cases-domestic-violence/>

⁴⁷ Interview with AGB, May 31, 2019.

occurred in January 2019 in regard to an effort to decriminalize violence between intimate partners.⁴⁸ Fortunately, once leaked, public resistance caused legislators to withdraw the proposal.⁴⁹ More recently, the media disclosed that the government was proposing new laws to grant police new restraining powers over domestic violence perpetrators.⁵⁰ While the latter legislation is a welcome step, the fact that the government is proposing laws with no input from domestic violence experts or civil society is unsettling--particularly with regard to efforts to weaken domestic violence protections.

16. Poland ratified the Istanbul Convention on April 13, 2015. It has not fully implemented the Istanbul Convention.⁵¹ To comply with the provisions of the Istanbul Convention, Poland must amend its domestic violence laws to expand the definition of domestic violence to include acts of domestic violence to include intimate partner abuse among individuals who are not cohabiting,⁵² as well as economic abuse.⁵³ The government's recent activities reveal a lack of commitment, however, to implementing the treaty. In 2016, the Ministry of Justice drafted a preliminary application to withdraw from the Convention.⁵⁴ Although no immediate steps to effectuate this change are currently being taken,⁵⁵ the drafting of this application suggests that domestic violence is not a priority for Poland's justice system.
17. Orders for protection are rare in Poland. One NGO stakeholder estimated there were approximately 6,000 to 7,000 orders of protection granted in Poland in 2017 and 2018 respectively, which is considerably lower than the stakeholder's estimate of 100,000 Blue Cards issued for domestic violence instances.⁵⁶ The number of granted orders for protection is of greater concern given the stakeholder's estimate that only 10% to 20% of domestic violence incidents are reported (and thus receive a Blue Card),⁵⁷

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Amicus curiae brief prepared by the Helsinki Foundation for Human Rights in the case of *A.K. v. Poland* (Application no. 904/18), available at http://beta.hfhr.pl/wp-content/uploads/2019/01/A.-K.-p.-Polsce-amicus_EN.pdf

⁵² Letter of the Commissioner for Human Rights to the Minister for Family, Labor and Social Policy (November 22, 2018) Ref No. III.518.21.2018.JA, available at <https://www.rpo.gov.pl/sites/default/files/Wyst%C4%85pienie%20do%20MRPiPS%20w%20sprawie%20danych%20statystycznych%20dotycz%C4%85cych%20przemocy%20w%20zwi%C4%85zkach.pdf>

⁵³ *UN Human Rights Council Independent Expert Group on the Issue of Discrimination Against Women in Law and in Practice*, (Dec. 13, 2018) available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24014&LangID=E>

⁵⁴ Press Release, European Parliament, Call on the Polish Government to Reconsider its Intention to Withdraw from the Istanbul Convention, (December 14, 2016), available at <https://www.europarl.europa.eu/news/en/press-room/20161214IPR56095/istanbul-convention-polish-government-asked-to-reconsider-intention-to-withdraw>

⁵⁵ *UN Human Rights Council Independent Expert Group on the Issue of Discrimination Against Women in Law and in Practice*, (Dec. 13, 2018) available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24014&LangID=E>

⁵⁶ Interview with RD (May 9, 2019).

⁵⁷ Interview with RD (May 9, 2019).

despite some estimates placing the number of cases of domestic violence at 1 million per year.⁵⁸

18. Many victims are unaware they can obtain an order to remove a perpetrator from the home.⁵⁹ Orders for protection can be issued by court order and or by the prosecutor, but obtaining such orders can take days; furthermore, they are reportedly rarely granted.⁶⁰ Because of the delay, a request for such protection can increase the danger to the victim, as the risk of further harm and lethality increases when she chooses to separate from her abuser. Many victims choose not to request protection. Under current law, police have no power to require the perpetrator to stay away from a victim.⁶¹ Finally, orders for protection under Polish law are a remedy in tort, not in criminal law.⁶² Thus, if a perpetrator violates an order of protection, a victim's only recourse is to pursue a fine in collections from the perpetrator.⁶³
19. Moreover, the police and prosecutors are reluctant to seek such remedies.⁶⁴ When the police and prosecutors do pursue such order, it is usually in the most extreme, i.e. life-threatening, conditions.⁶⁵ Domestic violence NGO representatives report many cases in which women were killed by their abusers, because authorities failed to take the situation seriously.⁶⁶
20. The other option for women is divorce, which is a long and difficult process for women in Poland, particularly in contested cases.⁶⁷ A large portion of Polish women do not work and thus rely on their husband's income.⁶⁸ Therefore, many women may not have the financial means to see the process through.⁶⁹ The presence of children in a relationship adds an element of fear for women seeking divorce.⁷⁰ Because women with children are most often not employed outside the home and lack independent income, many courts direct custody of the children to the husband.⁷¹ Victim-blaming by legal system actors is not uncommon in divorce settings. One NGO stakeholder recounted an incident where a wife/victim filed for divorce on the basis of domestic violence by the husband.⁷² The court granted joint custody of the children, citing the mother's failure to protect the children in light of the abuse.⁷³

21. Suggested recommendations:

⁵⁸ Interview with RD (May 9, 2019).

⁵⁹ Interview with RD (May 9, 2019).

⁶⁰ Interview with RD (May 9, 2019).

⁶¹ Interview with RD (May 9, 2019).

⁶² Interview with RD (May 9, 2019).

⁶³ Interview with RD (May 9, 2019).

⁶⁴ Interview with RD (May 9, 2019).

⁶⁵ Interview with RD (May 9, 2019).

⁶⁶ Interview with RD, May 9, 2019.

⁶⁷ Interview with RD, May 9, 2019.

⁶⁸ Interview with RD, May 9, 2019; Interview with KW, April 19, 2019.

⁶⁹ Interview with RD, May 9, 2019; Interview with KW, April 19, 2019.

⁷⁰ Interview with RD, May 9, 2019.

⁷¹ Interview with RD, May 9, 2019.

⁷² Interview with RD, May 9, 2019.

⁷³ Interview with RD, May 9, 2019.

- Modify the definition of domestic violence to include intimate partners who are not related, as well as former partners.
- Ensure that any efforts to amend domestic violence legislation comply with best practice standards that domestic violence be treated as seriously as other crimes, with penalties commensurate to or greater than other violent crimes.
- Ensure that any proposals to amend or adopt new legislation on domestic violence be conducted with adequate opportunity for civil society and the public to access and comment.
- Provide training to courts and prosecutors on the dynamics of domestic violence, the importance of orders for protection, and the use of evictions in domestic violence cases.
- Cease efforts to withdraw from the Istanbul Convention and instead commit to its full implementation.

III. Issue 2: Government Funding for NGO Service Providers Is Inadequate (Article 2, LOIPR paragraph 5)

22. Funding for independent, NGO-run shelters remains inadequate. The Polish government restricts funding for NGO-operated shelters for domestic violence victims. The government's justification for this restriction is that these shelters primarily assist only women and children, to the exclusion of men.⁷⁴
23. Moreover, financing from the Polish government to help fund NGO service providers has recently been severely reduced or eliminated.⁷⁵ Government funding can make up a significant portion of an NGO's revenues. One NGO representative stated that, in the past, the state's portion of its funding was approximately 40%, with city funding (50%) and private donations (10%) accounting for the remainder.⁷⁶ However, state funding has been withdrawn, forcing NGOs to turn to private funders. Private funding is a recent phenomenon for these NGOs; in the past, the state government completely or nearly completely funded activities.⁷⁷ Now, as one reported by one NGO stakeholder interviewed, an NGO may be fully funded by private benefactors.⁷⁸ The lack of government funding creates challenges for smaller, newer, and less-known NGOs to provide assistance to victims.⁷⁹

⁷⁴ The Advocates for Human Rights and Women's Rights Centre (Centrum Praw Kobiet), *Universal Periodic Review (UPR), Poland: Domestic Violence*, (March 2017), available at http://www.theadvocatesforhumanrights.org/poland_53.

⁷⁵ Interview with KW, April 19, 2019.

⁷⁶ Interview with RD, May 9, 2019.

⁷⁷ Interview with RD, May 9, 2019.

⁷⁸ Interview with RD, May 9, 2019.

⁷⁹ Interview with RD, May 9, 2019.

24. Poland's withdrawal of funding to organizations and resources for domestic violence victims has severely impeded efforts to curb domestic violence in the country.⁸⁰ The refusal to continue funding women's rights organizations, on the grounds that these organizations provide services only to women, has been identified as an "extremely problematic" obstacle by international human rights bodies.⁸¹ At the same time, funding has been increased to religious-based groups that advocate that the family is inviolate, and construe domestic violence as a family conflict to be sorted out through counseling in an effort to protect the marriage and raise the children.⁸²
25. Lack of funding is especially problematic with regard to shelters and resources for survivors of domestic violence. In 2017, there was only one dedicated shelter for women and children who have been the victims of domestic violence.⁸³ Women fleeing domestic violence are often sent to shelters for homeless women and many of the 35 government-funded municipal shelters are inadequate to fill the needs of victims due to "remote locations, short limits on length of stay, and lack of specialized services, such as medical care."⁸⁴ Indeed, international human rights bodies have recommended that Poland "secure adequate services to women victims/survivors of domestic violence, including access to shelter for the period needed, as well as preferential access to municipal housing assistance, taking into account specifically the needs of women in vulnerable situations, such as minority women, older women, women and girls with disabilities, young women, and migrant women."⁸⁵
26. Suggested recommendations related to Issue 3:
- Provide adequate and regular funding to specialized shelters and support services for domestic violence victims, including to shelters and support services that serve only women and children, and adopt legislation to guarantee that funding.

⁸⁰ Human Rights Watch (HRW), *The Breath of the Government on My Back: Attacks on Women's Rights in Poland* (USA: HRW, February 2019), available at <https://www.hrw.org/report/2019/02/06/breath-government-my-back/attacks-womens-rights-poland>.

⁸¹ UN Human Rights Office of the High Commissioner, "Human Rights Council Independent Expert Group on the Issue of Discrimination against Women in Law and in Practice," accessed June 11, 2019, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24014&LangID=E>.

⁸² Human Rights Watch (HRW), *The Breath of the Government on My Back: Attacks on Women's Rights in Poland*, (USA: HRW, February 2019), available at <https://www.hrw.org/report/2019/02/06/breath-government-my-back/attacks-womens-rights-poland>.

⁸³ Id.; Women Against Violence Europe (WAVE), *WAVE Country Report 2017: the Situation of Women's Specialist Support Services in Europe*, (Vienna: WAVE, March 2018), available at http://files.wave-network.org/researchreports/WAVE_CR_2017.pdf.

⁸⁴ Human Rights Watch (HRW), *The Breath of the Government on My Back: Attacks on Women's Rights in Poland*, (USA: HRW, February 2019), available at <https://www.hrw.org/report/2019/02/06/breath-government-my-back/attacks-womens-rights-poland>.

⁸⁵ UN Human Rights Office of the High Commissioner, "UN Human Rights Council Independent Expert Group on the Issue of Discrimination against Women in Law and in Practice" accessed June 11, 2019, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24014&LangID=E>.

- Provide fair access to public funds for all NGOs to enable them to continue to provide services to victims of domestic violence, including specialist support services to all women victims of violence and their children.

IV. Issue 3: Support Services and Legal Resources for Victims of Domestic Violence Are Inadequate to Meet the Needs of Victims (Articles 2 and 14, LOIPR paragraphs 5 and 26)

27. Shelters in Poland are operated either by the government or NGOs. The Polish government currently runs or funds 35 shelters, but none of these shelters are operated exclusively for victims of domestic violence.⁸⁶ For a country of over 38 million people,⁸⁷ Poland has a need for supplemental shelter and resource support.⁸⁸ but more than 38 million people.⁸⁹ Poland has a need for more shelter and resources.⁹⁰ Non-profit or non-governmental shelters also fill the gap to assist victims in Poland.⁹¹ Many of these non-profit shelters are run by the church.⁹² Many women victims, however, are reluctant to stay at church-run shelters because of shame or guilt associated with having separated from their husbands.⁹³ Those working in the church-run shelters often encourage victims to reunite with perpetrators in accordance with religious ideologies.⁹⁴
28. Victims of domestic violence often do not leave the home because, in addition to the lack of available shelters, it is challenging to obtain other housing. The family home is often legally owned by the husband or by other family members, such as the husband's parents, leading to a general reluctance to force the perpetrator to leave. Yet, domestic violence victims do not receive preference in securing municipal housing or housing assistance, and in the absence of adequate shelter spaces, this leaves them with little choice other than remaining in the home with the abuser.⁹⁵
29. Legal resources for victims of domestic violence are also limited. Victims usually bear the cost of hiring legal counsel in cases of domestic violence, unless the

⁸⁶ Committee Against Torture, “Seventh Periodic Report Submitted by Poland Under Article 19 of the Convention, due in 2017,” (February 20, 2018) para. 39

⁸⁷ The United States Central Intelligence Agency, “The World Factbook: Poland” (last updated May 13, 2019), available at <https://www.cia.gov/library/publications/the-world-factbook/geos/pl.html>.

⁸⁸ See RD Interview, dated May 9, 2019; see The Advocates for Human Rights and Women’s Rights Centre (Centrum Praw Kobiet), “Universal Periodic Review (UPR), Poland - Domestic Violence,” May 9, 2017, available at http://www.theadvocatesforhumanrights.org/poland_53, (“The number of specialized shelters is insufficient to ensure safe accommodation and support for all victims of domestic violence. Warsaw has only one shelter, and the 34 State-run domestic violence shelters do not serve exclusively women; some also accommodate men and conduct programs for perpetrators of domestic violence on the shelter’s premises.”)

⁸⁹ The United States Central Intelligence Agency, “The World Factbook: Poland” accessed June 11, 2019, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/pl.html>.

⁹⁰ See Interview with RD, May 9, 2019; The Advocates for Human Rights and Women’s Rights Centre (Centrum Praw Kobiet), *Universal Periodic Review (UPR), Poland: Domestic Violence*, (March 2017), 1, available at http://www.theadvocatesforhumanrights.org/poland_53.

⁹¹ Interview with RD, May 9, 2019.

⁹² Interview with RD, May 9, 2019.

⁹³ Interview with RD, May 9, 2019.

⁹⁴ Interview with RD, May 9, 2019.

⁹⁵ Letter from Ombudsman Bodnar to Prime Minister Morawiecki (January 28, 2019) (on file with authors).

presiding judge appoints an attorney, which is rare.⁹⁶ Public funding for victims' legal assistance is a hurdle.⁹⁷ Some Polish attorneys do assist victims on a pro bono basis,⁹⁸ as do NGOs that attempt to help victims gain access to legal resources.⁹⁹ One interviewee estimated that its NGO responds to 500 to 1,000 calls from domestic violence victims per month. The organization connects victims with pro bono representation and also makes efforts to communicate with police and prosecutors on behalf of victims to hold abusers accountable. This stakeholder believed that more-established and larger domestic violence NGOs in Poland probably receive even more callers every month.¹⁰⁰

30. Counseling for victims of domestic violence in Poland is limited, largely because of inadequate funding.¹⁰¹ Most counseling is paid by the victim or through the victim's insurance.¹⁰² Because most NGOs are located in larger urban centers, access to NGO-provided therapy, when available, is limited geographically.¹⁰³

31. Suggested recommendations related to Issue 2:

- Ensure that secular, non-governmental, autonomous organizations providing shelter are adequately resourced, available, and supported to provide shelter to victims.
- Provide adequate funding for legal assistance and counseling service providers to serve domestic violence victims and ensure that such services are accessible to victims and not subject to strict eligibility requirements.
- Take steps to ensure that long-term, affordable housing is made available to victims of domestic violence and, in the interim, adopt measures to ensure victims receive priority in securing municipal housing or housing assistance.

Issue 4: Poland's Efforts to Raise Public Awareness and Educate Systems Actors on Domestic Violence Is Insufficient (Article 10, LOIPR paragraph 15)

32. Educating the public and changing traditional patriarchal views about domestic violence is one of the primary challenges to combatting domestic violence in Poland, according to NGOs interviewed for this report.¹⁰⁴ Traditionally, domestic violence in Poland has been blamed on substance abuse, poverty, and in many cases, the victim herself for not complying with the wishes of her spouse.¹⁰⁵ Accordingly, many victims do not pursue domestic violence for fear of being blamed by the

⁹⁶ Interview with RD, May 9, 2019.

⁹⁷ Interview with KW, April 19, 2019.

⁹⁸ Interview with RD, May 9, 2019.

⁹⁹ Interview with RD, May 9, 2019.; Interview with KW, April 19, 2019.

¹⁰⁰ Interview with KW, April 19, 2019.

¹⁰¹ Interview with RD, May 9, 2019.

¹⁰² Interview with RD, May 9, 2019.

¹⁰³ Interview with RD, May 9, 2019.

¹⁰⁴ Interview with RD, May 9, 2019; Interview with KW, April 19, 2019.

¹⁰⁵ Interview with RD, May 9, 2019.

- community.¹⁰⁶ Similarly, reports that teachings of the Catholic Church reinforce notions of family preservation and that remaining in abusive relationships is best for the family and in accordance with religious doctrine.¹⁰⁷ Hand-in-hand with the shame victims of domestic violence may carry, there is also fear.¹⁰⁸ These victims fear retribution, blame, and of not being believed by anyone.¹⁰⁹
33. Deep-seated societal misunderstandings of domestic violence seem to be gaining strength in Poland. Driven largely by conservative political and religious factions, as well as traditional gender stereotypes, attacks on advocates for gender equality as “anti-family” are becoming more prevalent and driving much of the dialogue surrounding attempts at reform.
34. An NGO stakeholder interviewed for this report said that the current Polish government clings to traditional norms on the issue of domestic violence, considers domestic violence to be a family issue, and urges police and social workers not to interfere in situations of domestic violence within families.¹¹⁰ Another NGO representative reported that over the last four years, the government has not been interested in combatting domestic violence because this is viewed as interfering with the preservation of family units. The same individual said that officials are told not to interfere because preserving the family is of paramount importance.¹¹¹
35. Education is a key tool to driving change in Poland. International human rights bodies have recognized the need for increased education and investigative measures to improve Poland’s response to instances of domestic violence.¹¹² Domestic violence NGOs in Poland seek to train actors, particularly professionals who may interact with victims (e.g. police officers, prosecutors, doctors, and teachers) on how to identify domestic violence and assist victims.¹¹³ These education efforts, however, are dependent on funding. One NGO stakeholder stated the NGO conducted public media campaigns in the past, but lack of funding from the Polish government ended such efforts.¹¹⁴
36. One interviewed stakeholder has seen positive effects of related education campaigns, particularly in educating families on how to connect and interact with one another.¹¹⁵ For example, media campaigns can increase awareness not only of the prevalence of domestic violence but also access to resources for victims. One interviewed stakeholder stated that, during his NGO's most recent media campaign, calls to his

¹⁰⁶ Interview with RD, May 9, 2019.

¹⁰⁷ Interview with KW, April 19, 2019.

¹⁰⁸ Interview with KW, April 19, 2019.

¹⁰⁹ Interview with KW, April 19, 2019.

¹¹⁰ Interview with RD, May 9, 2019.

¹¹¹ Interview with RD, May 9, 2019.

¹¹² Brief for the Helsinki Foundation for Human Rights as Amicus Curiae, A.K. v. Poland, Application No. 904/18 (2019), available at beta.hfhr.pl/wp-content/uploads/2019/01/A.-K.-p.-Polsce-amicus_EN.pdf

¹¹³ Interview with RD, May 9, 2019.

¹¹⁴ Interview with RD, May 9, 2019.

¹¹⁵ Interview with KW, April 19, 2019.

- organization for victim assistance nearly doubled.¹¹⁶ That same stakeholder is encouraged by seeing an increase in fathers' direct involvement in the rearing of children.¹¹⁷
37. Several members of the Polish Parliament have used social media to encourage harmful misperceptions, such as the use of abuse against children and wives as a positive tool for fathers and husbands.¹¹⁸ NGOs face the challenge of countering domestic violence against government actors that exclude them.¹¹⁹ Groups espousing traditional views, including the church and other religious organizations, have been invited to participate in recent conferences and other public events concerning domestic violence hosted by the Polish government, while NGOs that were previously included are now being excluded and generally disparaged as being "feminist."¹²⁰ Polish politicians and religious leaders have publicly derided the Istanbul Convention, with some discussion at the ministry level of Poland's withdrawal.¹²¹ Thus, the need for education about domestic problem is not isolated to Poland's civilian population, but is very much also present among government officials.¹²²
38. NGOs also report restrictions on their ability to discuss domestic violence publicly and in the media. Interviewed representatives explained that Polish government retaliates when NGOs publicly criticize the government's handling of domestic violence or vocally espouses positions, such as advocating that victims separate from their abusers, which run against the traditional "family values" endorsed by the government.¹²³ In October of 2017, for example, the offices of two domestic violence NGOs were raided by police, one day after activists had participated in a rally related to gender-based violence and women's reproductive rights. The two organizations were also among those whose funding had been withdrawn by the Ministry of Justice.¹²⁴ One stakeholder's NGO has reportedly been reduced to using only social media to discuss domestic violence issues and disseminate information about its services.¹²⁵
39. NGOs often face challenges in getting police, prosecutors, and other government actors to assist victims they are serving.¹²⁶ One NGO stakeholder stated that apathy on the part of government agents is due to their view that domestic violence is not a

¹¹⁶ Interview with KW, April 19, 2019.

¹¹⁷ Interview with KW, April 19, 2019.

¹¹⁸ Interview with KW, April 19, 2019.

¹¹⁹ Interview with RD, May 9, 2019.

¹²⁰ Interview with RD, May 9, 2019.

¹²¹ The Advocates for Human Rights and Women's Rights Centre (Centrum Praw Kobiet), *Universal Periodic Review (UPR), Poland: Domestic Violence*, (March 2017), available at http://www.theadvocatesforhumanrights.org/poland_53.

¹²² Interview with KW, April 19, 2019.; *see also* Interview with RD, May 9, 2019.

¹²³ Interview with KW, April 19, 2019.

¹²⁴ Human Rights Watch, *Poland No Friend To Women* (December 3, 2017), available at <https://www.hrw.org/news/2017/12/03/poland-no-friend-women#>

¹²⁵ Interview with RD, May 9, 2019.

¹²⁶ Interview with KW, April 19, 2019.

problem in Poland.¹²⁷ Government agents have a poor attendance rate for domestic violence training; one stakeholder estimates that 50%-60% of police undergo such training, while 20% of prosecutors and only 2%-3% of judges do so.¹²⁸

40. Suggested recommendations related to Issue 4:

- Require regular trainings for police, prosecutors, judges, and social workers on all forms of violence against women and ensure that the trainings are adequately funded and conducted in collaboration with NGOs that work with victims of gender-based violence.
- Undertake measures, in consultation with civil society and NGOs serving victims, to raise public awareness about the causes and harms of domestic violence, as well as victims' legal rights and available resources.

V. Issue 5: The Role of the Ombudsman Is Important in Combating Domestic Violence but Faces Challenges (Article 2 2 and 13, LOIPR paragraph 5 and 24)

41. According to two NGOs, the Office of the Ombudsman for Human Rights is exceptionally supportive of victims of domestic violence.¹²⁹ Indeed, the Ombudsman, attorney Adam Bodnar, was awarded the Norwegian Rafto Foundation's annual prize in 2018 for his advocacy on human rights.¹³⁰ One interviewee views the Ombudsman's office as the only agency within the government actively working to help victims.¹³¹ Yet, the Ombudsman's authorities are limited. The Ombudsman office can examine complaints about human rights violations and refer cases to other governmental authorities and can make recommendations and monitor their implementation, but it has no independent authority to redress violations or modify existing laws.¹³² The Ombudsman's abilities are also limited to the office's budget, which was recently cut. In addition, the Polish government is seeking to curtail the Ombudsman's public statements critical of the government. In one recent incident, Poland's public television authority brought a lawsuit against the Ombudsman for statements he made in his official capacity. He has reportedly faced such pressures to curtail his public speech over the last few years.¹³³

¹²⁷ Interview with KW, April 19, 2019; *see also* The Advocates for Human Rights and Women's Rights Centre (Centrum Praw Kobiet), *Universal Periodic Review (UPR), Poland: Domestic Violence*, (March 2017), 2, available at http://www.theadvocatesforhumanrights.org/poland_53.

¹²⁸ Interview with KW, April 19, 2019.

¹²⁹ Interview with RD, May 9, 2019; Interview with KW, April 19, 2019.

¹³⁰ Reuters World News, "Polish Ombudsman wins Norwegian Human Rights Award, Reuters World News," accessed June 11, 2019, <http://www.reuters.com/article/us-poland--politics-norway/polish-ombudsman-wins-norwegian-human-rights-award-idUSKCN1M718A>.

¹³¹ Interview with RD, May 9, 2019.

¹³² Commissioner for Human Rights, "What We Do: How does the Commissioner for Human Rights and his Office work," accessed June 12, 2019, <https://www.rpo.gov.pl/en/content/what-we-do>.

¹³³ International Ombudsman Institute, "IOI issues Letter of Support to Polish Human Rights Commissioner Adam Bodnar," accessed June 11, 2019, <http://www.theioi.org/ioi-news/ioi-issues-letter-of-support-to-polish-human-rights-commissioner-adam-bodnar>.

42. From November 2018 to February 2019, the Ombudsman publicly issued a series of correspondence to Polish government officials on domestic violence.¹³⁴ The letters addressed the need to make laws prohibiting domestic violence more robust, the need to collect and make available adequate and disaggregated data on domestic violence incidents, the harm caused by delays in judicial proceedings in domestic violence cases, and the general inadequacy of resources and legal protections for victims.

43. Suggested recommendations related to Issue 5:

- Direct the Ministry of Interior and Ministry of Justice to collect and publish data on an annual basis concerning the number of reports of domestic violence, the number of arrests, prosecutions, and convictions for domestic violence, and the number of femicides.
- Increase the authority of the Ombudsman to intervene in court proceedings on behalf of victims, and to seek implementation of recommended actions to improve domestic violence protections.

¹³⁴ Letter from Ombudsman to Elizabeth Rafalska, Minister for Family, Work and Social Policy, (November 22, 2018) (on file with authors).; Letter from Ombudsman to Minister of Justice Zbigniew Ziobro, (November 19, 2018) (on file with authors).; Letter from Ombudsman to Prime Minister Mateusz Morawiecki, (January 28, 2019) (on file with authors).; Letter from Ombudsman to Government Plenipotentiary Adam Lipinski, (February 19, 2019) (on file with authors).