



General Assembly

Distr.: General
24 June 2020

English only

Human Rights Council

Forty-fourth session

15 June–3 July 2020

Agenda items 2 and 3

Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Written statement* submitted by Advocates for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[04 June 2020]

* Issued as received, in the language(s) of submission only.

GE.20-08323(E)



* 2 0 0 8 3 2 3 *

Please recycle The recycling symbol, consisting of three chasing arrows forming a triangle.



Challenges in the State response to domestic and sexual violence under COVID-19

The Advocates for Human Rights thanks the Human Rights Council for dedicating time to discussing women's human rights under Resolution 6/30. The elimination of discrimination against women requires the eradication of violence against women. As set forth in CEDAW General Recommendations No. 19 and 35, violence against women – including domestic and sexual violence – constitutes discrimination. The Advocates for Human Rights also thanks the Human Rights Council for its attention to violence against women and for extending the mandate of the Special Rapporteur on Violence against Women, who has issued a call for information on state responses to gender-based violence against women under COVID-19.

With regard to discrimination against women and violence against women (Item 3), The Advocates for Human Rights would like to draw attention to the issue of domestic and sexual violence in the context of COVID-19, a topic about which we have been gathering information in our state of Minnesota, United States of America. It is well-documented that rates of domestic and sexual violence against women have escalated under the pandemic. Restrictions, such as stay-at-home orders and the temporary closures of businesses, have increased barriers to victims' access to safety and justice and holding offenders accountable.

Like many jurisdictions, the U.S. state of Minnesota has issued a number of orders, including a shelter-in-place order, remote procedures for courts, and the suspension of evictions. Shelters, orders for protection, and other services remain available for victims but often within constraints or through adapted procedures. The Advocates for Human Rights has conducted nearly fifty interviews on challenges in the state response to COVID-19 to domestic and sexual violence and presents these preliminary findings, which are based on interviews conducted with law enforcement, lawyers, NGO service providers, advocates, prosecutors, and probation officers.

First, reports of violence against women have varied over time. Domestic violence reports initially decreased. The reasons for the drop include: there is no safe place for victims to call from and victims are focused on feeding themselves and protecting themselves and family from the virus; victims are afraid to go to a hospital because of fear of COVID-19; and victims are afraid to go to homes of friends, family, or shelters because of fear of the virus. Now, however, reports of domestic violence "are going through the roof." At least one service provider notes that reports of sexual violence are still down; she explains that sexual trauma is likely not victims' top priority under the pandemic; rather, children and finances are more important and an immediate need.

Second, there are concerns over the police response to domestic and sexual violence during the pandemic. Even if a victim initiates contact with the police, there is no guarantee police will physically go to the scene to interview parties, gather evidence, or make arrests. One victim went to the police station to report domestic violence and file for an order for protection, but staff did not provide her with an interpreter, no investigator was assigned to the case, and prosecutors never charged the abuser. There are also reports of situations where the police will not come to the victim's home but instead simply call the victim.

Third, abusers are able to exploit the system during the pandemic. Abusers have spit on officers who tried to arrest them and have claimed "I have a fever" or "I'm infected," attempting to avoid arrest or being taken to jail. In other situations, the abuser has tried to manipulate the victim to not press charges and victims have returned to their abusers because they have no other place to go.

Fourth, issues are emerging with regard to court-issued civil orders for protection that cause concern for victims' safety. Some judges are reportedly more skeptical of the need for emergency orders for protection, which are issued in ex parte proceedings based on a written application. Some judges requiring evidence of more serious harm or threats to issue an order for protection, and they are denying orders for protection for lower levels of violence or older allegations of harm. Although Minnesota's governor's order makes clear that his order suspending evictions applies only to landlords, some judges have expressed hesitation about removing violent abusers from the home under the governor's stay-home order.

Fifth, a backlog is steadily building in the criminal justice system. Because courts are not conducting certain hearings or trials, including jury trials, stakeholders have opined it will take anywhere from 6 to 18 months to deal with the backlog of cases. Concerns with this backlog include prosecutor burnout and prosecutors having to tell victims that they will offer abusers more generous plea bargains. Delays in violence-against-women cases affect the success of the prosecution. As one prosecutor noted, “time is not a friend of domestic violence prosecutions; our cases do not get better with age.” As more time passes, victims may be less likely to return phone calls or participate in the prosecution, and they may recant earlier statements. Delays also open the door for offenders to engage in more intimidation and manipulation of victims. From the victim’s perspective, court delays place a burden on victims as well. Victims feel they cannot do anything, that the process is never-ending, and that they must live with the trauma without closure.

Sixth, technology is presenting new and previously unknown challenges. First, it is difficult for victims to reach out remotely for help, whether it is from the police, advocates, or the courts. Often victims are not safe talking on the phone from home. Likewise, many do not have access to internet, computers, or sometimes even a phone. Even if they do have a phone, conferencing platforms do not always function well on a mobile device, making meetings with lawyers and advocates or remote court hearings difficult, if not impossible. Moreover, privacy is a major concern, and it is difficult to ensure virtual tools are confidential. Some of these conferencing platforms, such as Zoom, have a recording feature that might allow a party to the Zoom conference to record and post it on social media. There is also a logistical problem that arises under stay-at-home orders; if the victim is living with her abuser, the abuser could be monitoring the victim’s calls, tracking her phone, and monitoring texts, emails, and information stored in the cloud. Different justice sectors may rely on different technology platforms; as a result, conferencing technology may be incompatible across sectors and even between cities and counties. Technology concerns also affect evidence-gathering, including obtaining medical releases, medical reports, and pictures of the victim at different points in the investigation. Finally, barriers to face-to-face meetings create several problems for victims. During the case process, attorneys are encouraged to build rapport with victims, but doing so is challenging via online conferencing or telephone. In addition, in-person meetings allow attorneys to see things that they might otherwise miss in remote communications. Court delays have prompted attorneys to postpone rapport-building meetings with victims, creating additional anxiety for victims and their children.

Finally, all stakeholders are concerned about how to remain victim-centered in their work. Remote communication with victims and systems-actors does not adequately help victims or provide sufficient safety. Many stakeholders find it difficult to connect with victims, especially when the victim, victim advocates, and detective cannot be present together in the same room. Advocates and lawyers face extreme challenges in gaining victims’ trust when they cannot meet with victims in person. Some advocates have used texting to communicate with sexual violence victims who may lack privacy in their home, but that mode of communication results in longer delays. As described above, bringing everyone together through technology is difficult, especially when some victims do not have access to or knowledge of technology. Moreover, in-person interviews with victims wearing cloth face-coverings are difficult and the masks impede participants’ ability to make connections and increase trust.

It is imperative that states and civil society continue to monitor challenges, gaps, as well as promising practices and innovative solutions to respond to domestic and sexual violence in the context of COVID-19 with an aim toward developing sustainable solutions in the immediate- and long-term to better protect victims and hold offenders accountable.

We urge the Human Rights Council to:

- request the Special Rapporteur on Violence against Women to provide an oral update on COVID-19 at every session;
- call on Member States to implement best practices as identified by service providers and provide assistance to other Member States to do the same; and

- pay particular attention to the issue of violence against women not only during the COVID-19 pandemic but also afterward due to the long-term effects of the pandemic and related legal restrictions.
-