

SETTING THE STANDARD

INTERNATIONAL GOOD PRACTICE TO
INFORM AN AUSTRALIAN NATIONAL
PLAN OF ACTION TO ELIMINATE
VIOLENCE AGAINST WOMEN

STOP VIOLENCE AGAINST WOMEN

AMNESTY
INTERNATIONAL



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Published by Amnesty International Australia

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Edited by Wordsworth Writing.

Printed by QUT Printing Services: www.qps.qut.edu.au.

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Executive Summary

Violence against women is widespread, systematic and culturally entrenched. In Australia, one in three women who have been in relationships has experienced violence. The responses to this violence only compound the problems: women fleeing violence are turned away from shelters for lack of space; prosecution rates for sexual assault are among the lowest for all offences; and there are no systematic education programs to give the next generation the skills to condemn violence and build healthy relationships.

In March 2005, Amnesty International launched a campaign for a national plan of action (NPOA) to eliminate violence against women in Australia. This report was conceived by Amnesty International Australia as part of the campaign.

The aim of this report is to bring a human rights perspective to bear on the issue of violence against women. Using a human rights framework, Amnesty International Australia has sought to identify gaps in current policies, legislation and practices. Rather than propose detailed policy responses to these gaps, we have identified good practice examples on which Australia should draw. Our purpose is to ensure that Australia develops a first-class NPOA: one that draws on international good practice and meets Australia's human rights obligations.

In preparing the report, the organisation has surveyed the national plans developed by other countries, in order to identify 'international good practice' (the methodology is described in full at Annex B, p. 66.). Amnesty International Australia is presenting this report to government and to other agencies and organisations, in order to inform the process of developing an Australian NPOA. A brief list of recommended reading for policymakers, containing a selection of the texts that have informed this report, is at Annex C (p. 69).

Why a National Plan of Action?

The need for national plans of action to eliminate violence against women was first identified at the World Conference on Women in Beijing in 1995. Since then, many members of the Organisation for Economic Cooperation and Development, and other countries, have adopted NPOAs. These include: Brazil, Canada, Ecuador, Germany, Indonesia, New Zealand, Norway, Spain and Switzerland.

An NPOA must be more than a policy statement or a fresh presentation of existing policies and practices. In order to be worthwhile and effective, an NPOA must be new, in both its approach and its content. Part of that new approach should be the placement of human rights squarely at the centre of all policies and practices that deal with violence against women.

Human rights

Amnesty International Australia recognises that the effects of, and responses to, violence against women cover a wide range of issues, from health to housing and employment. Governments need to consider each of these issues in developing a plan to eliminate violence against women. However, at its core, violence against women is a human rights issue.

In the context of developing an NPOA in Australia, we need to state explicitly that violence against women – and any tolerance of violence against women – is an abuse of human rights and a form of discrimination. Violence prevents women from enjoying their full rights as citizens and human beings. It may rob women of

their confidence, their health, their livelihoods and their lives. Australia's NPoA must address the human rights violations that lie at the core of violence against women.

Violence against women is also the subject of instruments of international law. As a signatory to the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Australia has an obligation to do several things: exercise 'due diligence' to prevent violence against women; provide services to victims/survivors of abuse; and ensure that perpetrators are brought to justice.

International good practice

There is no such thing as the 'ideal' NPoA. Each country has its own particular circumstances, and each NPoA must be designed to meet the needs of a particular country and the communities within it. No other country mirrors precisely Australia's circumstances – but we can draw on the good work pioneered by others. This report contains many examples of good practice drawn from other OECD countries, such as the United States, the United Kingdom and other EU member states. A full list of these examples is contained in Annex C (p. 69).

A National Plan of Action for Australia

Extensive research has been conducted on violence against women in Australia. This report builds on, and complements, existing research by applying a human rights framework to efforts to stop violence against women.

The report has a particular focus on the two most prevalent forms of violence against women: domestic violence and sexual assault. Amnesty International Australia intends to conduct further research on other areas of violence against women – such as trafficking and sexual harassment – in order to ensure that the full spectrum of problems is addressed.

Structural, Strategic, Sustained

An Australian NPoA should be based on a set of fundamental principles: it should be structural, strategic and sustainable.

The **structural** nature of an NPoA lies in two areas. First, the plan needs to create structures that will harmonise the efforts of government agencies in all jurisdictions in Australia. Cooperation and consistency between jurisdictions is paramount. A national-level body, with a strong mandate, should drive the implementation and further development of the NPoA. Second, the NPoA must take a 'socio-structural' approach to violence against women. This means recognising the relationship between violence and the patriarchal traditions that have found expression in laws, institutions, attitudes and perceptions. In response, the NPoA needs to take a long-term, and very holistic, approach to effecting change in the community.

An NPoA must also be **strategic**: built around targets and timeframes, and linked to accountability mechanisms. This means identifying the problems clearly, allocating sufficient resources, and assigning responsibilities.

The success of the NPoA will depend, in large part, on how well **sustained** it is. Substantial and ongoing funding is perhaps the most important single element of an effective NPoA. Public funding will be required across several areas, including education, health, police, the judiciary and the service sector. The leadership body guiding the NPoA should also be stable and permanent.

In order to be structural, strategic and sustainable, the NPoA should:

- implement a cross-portfolio coordinating body
- engage all levels of government
- pass specific legislation
- ensure diversity and inclusion
- support collaboration between peak bodies in the sector
- include all forms of violence against women;
- prioritise women's safety and empowerment
- consult with experienced and knowledgeable stakeholders
- address sex discrimination as the root cause of violence against women
- include targets, evaluation and accountability
- establish permanent leadership bodies
- ensure substantial, ongoing funding.

Prevention, Provision, Prosecution

The goal of the NPoA must be to end violence against women. However, until prevention efforts come to fruition, we must respond to the violence that does occur. This means providing support to the victim/survivor and bringing the perpetrators of violence to justice. The content of a comprehensive NPoA must cover three areas: the prevention of violence; the provision of services; and the prosecution of offenders.

The *prevention* of violence against women requires long-term strategies, such as education and public awareness-raising, to change deeply entrenched attitudes. In the area of prevention, education is the key. The development of an education program for implementation in every high school across Australia must be a cornerstone of the NPoA.

An NPoA needs to ensure the *provision* of services to all victim/survivors: for their physical, mental and social wellbeing, and for their protection from further violence.

These services cover a wide range of needs, and must be coordinated and delivered in a seamless manner.

Prosecution rates for acts of violence against women are far too low. Less than 3 per cent of sexual assaults and related offences in Australia result in a conviction. An NPoA must ensure that all forms of violence against women are investigated, prosecuted and punished in accordance with the gravity of the crime, and that victims/survivors receive appropriate remedies. The NPoA should seek to identify and remove barriers to prosecution; only then will women have the confidence to seek a criminal justice response to acts of violence.

In the areas of prevention, provision and prosecution, the NPoA should:

- use the education system to challenge prejudice
- raise public awareness of violence against women
- ensure the coordination of specialised services for victim/survivors of violence
- provide places of safety for all women fleeing violence

- require compulsory training of all relevant service professionals
- ensure the protection of victims/survivors from further violence
- support the economic independence of women fleeing violence
- provide access to compensation
- ensure effective, supportive and protective police practices
- prevent re-victimisation of women during the investigation and prosecution of acts of violence
- ensure that legislation does not discriminate against women, or act as an obstacle to prosecution
- develop national, accredited training programs for police, prosecutors and the judiciary.

Conclusion

It is time to move beyond the piecemeal approach that has characterised government action on violence against women over the last few decades. It is not possible to end violence with disparate initiatives, short-term funding and one-off projects. Strong national leadership is required to drive efforts to eliminate violence against women. Legislative bodies and statutory agencies, together with the voluntary sector, all have a role to play. A single, national strategy – embodied in an NPoA – will help to coordinate these roles, and to improve partnerships.

In developing its NPoA, Australia is well-placed to adopt the best of international strategies and practices. We can set the standard on national plans of action, and ensure that all women in Australia enjoy their right to live free of violence.

Introduction

In 2004, Amnesty International embarked on a six-year, global campaign to stop violence against women. The campaign frames violence against women as a human rights abuse, and emphasises that governments, the community and individuals have a responsibility to take action to end it. In 2005, the Australian section of Amnesty International launched a campaign for an Australian National Plan of Action (NPoA) to eliminate violence against women, which was endorsed by almost 200 organisations working in the area.

In launching the campaign, Amnesty International Australia recognised that federal and state/territory governments were already supporting a range of initiatives and programs to eliminate violence against women. This activity is important and commendable, but the evidence shows that violence against women continues at alarming rates. Disparate and short-term initiatives developed at different levels of government are simply not enough to address so serious, prevalent and deeply cultural a problem as violence against women. To this end, the United Nations recently urged states to:

Take action to eliminate all forms of violence against women by means of a more systematic, comprehensive, multisectoral and sustained approach, adequately supported and facilitated by strong institutional mechanisms and financing, through national action plans.¹

The extensive research on violence against women in Australia suggests that the problem is widespread, and that policy, legal and practical responses are inadequate. An NPoA is a blueprint for ending violence against women: it aims not only to respond to violence against women, but also to address its root causes. This report provides direction on the guiding principles for a human rights-based NPoA. It presents a model of good practice² for such a plan, outlining broad principles and examples, without delving into the detail of the plan's policies or their implementation. The research behind this report aims to complement, rather than replicate, existing research. Our focus is on the experience of other countries in implementing NPoAs, along with international human rights-based research on interventions to prevent and respond to violence against women. Ongoing research on international and local good practice should, ideally, be built into an Australian NPoA.

To be effective, an NPoA should meet international good practice standards in two ways. First, *in formulation* – the construction of policy around systems, targets, funding regimes and sites of responsibility; and second, *in content* – the areas of action.

In terms of formulation, an NPoA should be structural, strategic and sustained. 'Structural' in the establishment of cross-portfolio, multisectoral structures, and also in the treatment of violence against women as a socio-structural problem, based in sex discrimination. 'Strategic' in that the NPoA should set an overarching government agenda, provide leadership and drive change, with a clear set of objectives, activities and commitments. 'Sustained', because the deeply entrenched cultural nature of violence against women requires long-term social change; an NPoA should establish systems, such as ongoing funding regimes and permanent leadership bodies, that ensure the plan's long-term survival.

Amnesty International draws on obligations outlined in international treaties, such as the CEDAW³, to highlight three areas of action for the content of an NPoA: 'prevention, provision and prosecution'. 'Prevention' entails strategies such as education and public awareness-raising, aiming to change sexist and violence-tolerant attitudes which contribute to, and are reinforced by, violence against women. 'Provision' is about services that ensure the physical, mental and social wellbeing of victim/survivors in the aftermath of abuse, and that protect them from further violence. 'Prosecution' entails all legal and police

responses, which should aim to ensure that violence against women is treated as a human rights violation and a criminal offence in law and practice.

While the obligations of international law sit with the federal government, Australia's constitutional division of powers relegates much of the task of addressing and preventing violence against women to the states and territories. Over the years, the states and territories have developed strategies, and implemented measures, to address violence against women; however, there are significant differences between the jurisdictions in terms of content, policy, programs, legislation and the allocation of funding. An NPoA would enable the federal government to set minimum national standards and establish a structure within which the different jurisdictions could work cooperatively to address violence against women, ensuring the propagation of good practice.

Importantly, an NPoA must be more than a national-level policy statement or even a new series of initiatives. It must not be simply an umbrella term for the same old approach. As a blueprint for ending violence against women, an NPoA must be comprehensive and well-resourced, with clear targets, timelines and a procedure for revision. It must systematise and stabilise what works, and provide the resources for evaluating and building on initiatives, to ensure that the NPoA remains adaptive and responsive for years to come – for however long it takes to end violence against women.

Why a National Plan of Action?

As a signatory to CEDAW, Australia has an obligation – residing with the Federal Government – to do several things: exercise ‘due diligence’ to prevent violence against women; provide services to victim/survivors of abuse; and ensure that perpetrators are brought to justice.⁴ As part of this obligation, treaties such as the Declaration on the Elimination of Violence against Women⁵ and the Beijing Declaration and Platform for Action⁶ call on states to develop and implement NPoAs on violence against women. Amnesty International has outlined international legal obligations to end violence against women in its report *Making Rights a Reality: The duty of states to address violence against women*.⁷

The concept of due diligence is central to the role of government in preventing violence against women, and highlights the need for an NPoA. Due diligence means that states must exercise a certain standard of care in responding to human rights abuses, even when those abuses are perpetrated by private individuals. This is especially important in the case of violence against women, where perpetrators are often husbands, partners or other ‘non-state actors’. The concept of due diligence therefore bridges the gap between the public and private spheres: abuses such as domestic violence can no longer be shielded within the so-called private domain of the family, but engage the human rights obligations of the state.

Due diligence also extends the concept of rights beyond its traditional domain of law and justice, and into the area of public policymaking. Formal provisions, such as legal equality and the criminalisation of violence, are simply a starting point. It is not enough for a state to condemn violence against women, or even to legislate against it. States must also provide the resources, and implement the systems, to give practical effect to women’s right to live free from violence.

In Australia, one in three women who have been in relationships have experienced violence⁸, and violence perpetrated by an intimate partner is the leading risk factor of death, disability and illness for women aged 15 to 44 years⁹. The responses to this violence only compound the problems: women fleeing violence are turned away from shelters for lack of space; prosecution rates for sexual assault are among the lowest for all offences; and there are no systematic education programs to give the next generation the skills to recognise and condemn violence, and to build healthy relationships. Due diligence demands far better from public policy. For as long as violence against women remains prevalent, and our responses so measurably inadequate, Australia will continue to fail its international legal obligations.

International legal texts provide little in the way of policy guidance to help governments achieve due diligence¹⁰. More substantial progress in defining the scope and content of due diligence has been made by international human rights–based organisations, including the Council of Europe, the United Nations Development Fund for Women (UNIFEM) and Division for the Advancement of Women, and the European Women’s Lobby. These organisations have undertaken research into the initiatives developed by different nation states in order to determine what works – in areas such as policy, legislation, educational programs and service provision. This research tells us that an NPoA is an important tool to help states meet their human rights obligations relating to due diligence on violence against women, and offers guidance on how to make such plans effective.

The first international legal document to express consensus on guiding principles for the development of NPoAs was the Council of Europe's Recommendation Rec (2002)5 on the protection of women against violence. European member states are asked to:

Introduce, develop and/or improve where necessary national policies against violence based on:

- a) maximum safety and protection of victims/survivors
- b) empowerment of victimised women by optimal support and assistance structures which avoid secondary victimisation
- c) adjustment of the criminal and civil law including the judicial procedure
- d) raising of public awareness and education of children and young persons
- e) ensuring special training for professionals confronted with violence against women
- f) prevention in all respective fields.¹¹

Over the past decade, many countries have implemented their own NPoAs, but there is clearly no 'ideal' NPoA that can be simply transferred to the Australian context. Different countries lead the way in different areas, and the focus of plans will depend on the specifics of national situations. In the absence of regional human rights instruments applicable to Australia, texts such as the recommendation by the Council of Europe provide guidance on the development of NPoAs for countries with similar social, economic and political structures. The good practice models and reference texts produced by international organisations provide further guidance on a human rights-based approach to preventing violence against women, and are directly applicable to the process of developing an Australian NPoA.

Good Practice in Formulation: Structural, Strategic and Sustained

The best [National Action Plans] provide the mechanisms and resources for government and civil society to work together. They are, in essence, blueprints for addressing structures of gender inequality and making visible the social, economic, political and cultural aspects of society that must be involved if change is to happen.¹²

A human rights–based NPoA on violence against women must go beyond a piecemeal approach and establish an ongoing, broadly envisaged strategy to address the root causes of violence against women. The NPoA should be guided by a set of basic principles, distilled from international research and experience: it should be structural, strategic and sustained.

Box 1 International good practice: the NPoA

The NPoA should be detailed and explicit when providing information: The NPoA should:

- provide a clear definition of violence against women, naming the problem (i.e. male violence against women)
- detail who has overall responsibility for overseeing and implementing the plan of action
- detail the process of consultation used and the agencies, services and organisations consulted
- include details of agreed indicators, targets, time frames and benchmarks and the strategies identified
- provide information on the mechanisms for monitoring progress and evaluating outcomes.¹³

1. Structural

An NPoA should have structures that allow it to operate across portfolios and sectors. Those structures should include a coordinating body, sector-level peak bodies, systems to ensure diversity and inclusion, and legislation dealing specifically with violence against women. They would frame and guide the plan and ensure a collaborative approach across government departments, at federal and state/territory levels, and with the wider non-government and community sector.

Such 'operational' structures also allow the NPoA to be 'structural' in another sense of the term: that of treating violence against women as a socio-structural problem based in sex discrimination. Without the engagement of all relevant government departments, important areas of action will be missed and the NPoA cannot effectively implement the holistic, socio-structural approach recognised as good practice internationally.

1.1 Whole-of-government structures

The prevention of violence against women requires the engagement of a range of public sector bodies, including those dealing with housing, education, health, community services, criminal justice, family and civil courts, children, international development, sport, tourism and culture. The overall management of an NPoA should sit with:

A senior woman member of government or government official, preferably in a ministry dealing with equality issues ... to ensure that violence against women and girls is made an urgent priority.¹⁴

It is essential that the plan involve all relevant portfolios, rather than being confined to single department and that the management post holder 'have powers to influence policy and practice, and coordinate action between ministries.¹⁵

Amnesty International's consultation found that, in countries where NPoAs have been implemented, it was often felt that certain sectors, such as health, welfare, immigration/asylum and education, could have contributed more or been more involved in responding to violence against women in their professional contexts. A Norwegian government official interviewed for the 2005 consultation undertaken by Amnesty International's UK section as background research for that section's campaigning stated:

They [health and welfare sectors] have very little sense and understanding of why this is a problem that concerns them because they are not interested in the reason why people come, just the fact that they are there. But if they are going to give advice to people coming there, they also need to know something about this field.

Adopting a whole-of-government, cross-portfolio approach increases the involvement of stakeholders who are necessary to the effective implementation of an NPoA. Involvement of different government departments and sectors also creates a sense of shared ownership and builds commitment, essential for the effective functioning of an NPoA.

Good practice for all structures, governmental and sectorial, requires that:

- they be adequately resourced to enable them to undertake research and advocacy roles, build capacity and share information
- they be representative and include Indigenous women, women from culturally and linguistically diverse backgrounds and women with disabilities
- they clearly identify bodies with responsibilities for implementation, reporting and evaluation.

1.1.1 Cross-portfolio coordinating bodies

International examples show the importance of bodies to oversee implementation of the strategic objectives and set future agendas for an NPoA. Such coordinating and monitoring bodies often function as steering committees, and are considered most effective when invested with powers which allow them to make an impact on the plan, such as to commission research, coordinate cross-portfolio and/or cross-jurisdictional action, implement good practice and revise targets.

While there is no single good practice model for coordinating bodies, international experience indicates that a coordinating and implementing body should be situated in a central government department with a cross-portfolio mandate. The Council of Europe recommends that such bodies include representatives of specialist women's organisations and professional groups, and that they set three-yearly objectives, which are reported against annually.¹⁶ The council also recommends establishing local standing committees, to coordinate and promote the NPoA at the grassroots community level. These groups should similarly set themselves achievable local three-year plans in line with the timelines and objectives of the NPoA, and report each year on progress. Such bodies must operate independently and transparently to ensure accountability to victim/survivors, the sector and society as a whole.

Box 2 International good practice: coordinating bodies

In some countries (Denmark, Norway, The Netherlands) coordinating bodies take the form of inter-ministerial groups.

Officials working on the NPoAs in these countries reported that as participating ministers took the objectives of the plan back into their own sectors, awareness of violence against women among people in government departments and politicians appeared to increase¹⁷. Here an NPoA provided a way for committed officials to hold other participating ministries/agencies to account in delivering their commitments.

In other countries, coordinating bodies were made up of representatives of central and local government as well as of the volunteer, health and legal sectors. The advantage of this structure was that it allowed the body to act as a conduit between relevant sectors and government, therefore serving as a structure for consultation as well as implementation.

1.1.2 Different levels of government

State/territory and local governments must also be engaged in an NPoA. Although states and territories have measures to address violence against women, significant differences exist between them in terms of the funding available and the policy, programs and legislation directed towards its elimination. An NPoA can set minimum standards of operation for states on a national level and hold individual states accountable for non-compliance. Structures and procedures allowing for cooperation between the different levels of government should be utilised and/or developed, whether through existing channels such as the Council of Australian Governments (COAG) and the Commonwealth, State, Territory and New Zealand Ministers' Conference on the Status of Women (MINCO), or through newly created cooperative systems.

1.1.3 Legislation

The UN Secretary General's Study on violence against women recommended specialised legislation on violence against women. Specific federal legislation serves an important symbolic role, recognising violence against women as a crime against the state, rather than a private matter, and mandating national efforts to eliminate violence against women.

Box 3 International good practice: legislation

In 2005, the United States reauthorised the 1994 Violence against Women Act. The Violence against Women Act aims to reduce violence against women through a range of criminal, civil and funding measures. The act ensures orders are recognised in all states, amends immigration law to allow women who have survived violence to gain residency, provides funding to services for victim/survivors, holds perpetrators accountable, strengthens law enforcement, and improves research and data collection:

The statute authorised the appropriation of 1.62 billion dollars in federal funds to support a broad range of programs, including training of police, prosecutors, and judges; support of battered women's shelters and rape prevention programs; creation of a national toll-free domestic violence telephone hotline; and establishment of a national database to improve local, state and federal law enforcement agencies ability to record and share information on domestic violence and stalking offences.¹⁸

At the time of writing (March 2008), the US also had an International Violence against Women Bill before the Senate to ensure violence against women is addressed globally through aid funding, military operations and diplomatic measures.

Specific legislation not only appears to enhance the effectiveness of criminal justice responses, but also interacts with other legislation and allows for amendments to related federal laws (such as immigration law in the area of gender-based persecution). A violence against women act can also frame actions to be taken, strengthen responses and enable a protected funding regime at the federal level and to states/territories. The Australian NPoA should generate specific federal legislation that draws together all the measures discussed in this paper.

1.1.4 Diversity and inclusion

While an NPoA should be based on the human rights principle of non-discrimination, it must take that formal protection further by ensuring that women in positions of disadvantage have equal access to services and justice. The plan must include provisions for women with additional needs or in complex situations, such as Indigenous women, women from culturally and linguistically diverse backgrounds, asylum seekers, undocumented workers, women in prostitution, women in prison, women with disabilities, lesbians, and women from geographically isolated communities.

The UN specifically calls on states to 'ensure that diverse strategies that take into account the intersection of gender with other factors are developed in order to eradicate all forms of violence against women'.¹⁹ This means developing programs and institutional support for addressing the needs of marginalised groups, as assessed by existing and/or specially commissioned research. A proportion of the NPoA budget should be earmarked for the implementation, coordination and monitoring of such strategies.

Indigenous women in Australia are nearly ten times more likely to die due to assault as non-Indigenous women, and 35 times more likely than other Australian women to be admitted to hospital for family violence-related injuries.²⁰ Given these extremely high rates of violence, it is recommended that an NPoA include immediate provisions for a national-level body empowered to undertake research, build capacity and drive policy on efforts to end violence against Indigenous women. This body should represent and recognise the diversity of Indigenous women's experience and knowledge, and its work plan should be driven by the priorities and methodologies that they identify as appropriate.

There are currently no national-level initiatives to address violence against refugee and immigrant women, and numerous human rights concerns have been raised about the treatment of asylum-seekers over recent years. It is essential that an NPoA include specific initiatives to prevent and respond to violence against asylum-seeker and immigrant women.

Box 4 International good practice: diversity and inclusion

Germany's second Action Plan of the Federal Government to Combat Violence against Women acknowledges that if specific measures to ensure the inclusion of marginalised groups are not integrated into the plan, the needs of these groups will go unmet. The second plan therefore begins 'at the point at which, after the first Action Plan, a special need for action exists – such as in considering women with migrant backgrounds'²¹. In addition to recommending action for migrant women, the German plan also outlines a number of federal initiatives specific to women with disabilities and older women²².

Similarly, the research informing the Canadian NPoA emphasises Inuit and Indigenous women's experiences of violence, recognises their specific needs, and links the violence with wider racial discrimination. New Zealand's Action Plan to Reduce Community Violence and Sexual Violence has a section on 'identified gaps,' where it is noted that 'programmes developed specifically for Maori have shown positive results. There is a need for programmes to be developed specifically for Pacific Peoples and for other ethnic groups'²³.

Care must be taken to ensure that initiatives aimed at meeting the needs of marginalised groups are fully informed by the experiences of those who are affected and/or have experience in the area. Good practice ensures full representation in all consultative and decision-making structures. For example, in New Zealand representatives from the Maori Reference Group and Pacific Advisory Group are included on the Taskforce for Action on Violence within Families.

1.1.5 Peak bodies

Currently, work in the violence against women sector in Australia is characterised by a lack of stable funding, time pressure and worker burnout. Many initiatives are driven by individuals and, as a result, initiatives often lose focus or collapse when those individuals move on. There is little time for professional development and little opportunity for workers to share information and plan for the future. An NPoA should support representative national organisations working on violence against women to provide research, capacity building, advocacy and forums for information sharing.

Organisations working to eliminate violence against women and providing services to survivors generally specialise in either domestic violence or sexual assault. Victim/survivors of sexual assault will often have different needs to victim/survivors of domestic violence, providing a clear and legitimate rationale for such specialisation. However, it is often the case that women experience more than one form of violence (for example sexual assault in the context of domestic violence), and the different forms of violence against women share many of the same causes and consequences. While there is a clear need for specialist support services, there is also a need for services to collaborate.

Although existing services have made efforts to collaborate there is no systematic way to bring the two main sectors together to share work and expertise. An NPoA should provide the structures to enable the above two sectors, and others dealing with different forms of violence against women, such as trafficking, to coordinate efforts and offer an integrated service.

1.2 Socio-structural approach to violence against women

According to the Council of Europe, national strategies such as NPoAs must take a structural approach to violence against women, recognising its expression in laws, institutions, attitudes and perceptions. The council therefore calls on its member states to treat violence against women as 'a major structural and societal problem, based on the unequal power relations between women and men',²⁴ and not as 'as a series of individual unconnected events'.²⁵

While a 'socio-structural approach' is more a philosophy underpinning policy than a policy itself, certain processes implicit in this approach can be used to guide policy development. Implementing operational structures to engage the efforts and responsibilities of all areas of government is an example of one such process, in that such cooperation is essential to an effective and holistic socio-structural approach. Further examples are outlined below, but in summary the NPoA should:

- include all forms of violence against women
- be based on consultation with experienced and knowledgeable stakeholders
- address sex discrimination.

1.2.1 Include all forms of violence against women

An NPoA should seek to address all forms of violence against women, using a broad, inclusive definition such as that used in the Beijing Declaration and Platform for Action formulated at the UN Fourth World Conference on Women.²⁶ This will enable the plan to address the connections between the different forms of violence and keep open the possibility for later work on previously un-envisaged areas.

A consultation undertaken by the UK section of Amnesty International in 2005 as background research for that section's campaigning found that in almost all countries where existing plans focused principally or exclusively on domestic violence, the view was that the original focus should have been broadened to include other forms of violence against women. As a worker in one nongovernmental organisation (NGO) noted about the implementation of a national action plan in Denmark: 'There are certain things not mentioned [in the plan]. And if it is not mentioned, you cannot work with it, you cannot do anything about it'. Similarly, a German government official pointed out that, in order to achieve change, there was a need for the NPoA to deal simultaneously with forms of violence against women that were previously the subject of different initiatives:

The measures undertaken hitherto by the Federal Government affected individual areas as a rule (for example, domestic violence, sexual harassment at the workplace, sexual offences and the like) and was [sic] able to achieve improvements in certain aspects of those areas. Both the topics and the projects were often determined by the public debate and did not follow any long-term strategy. This might be one of the reasons why little has changed so far as regards the reality of violence against women [...]. In order to combat violence against women in an effective and long-lasting manner, a comprehensive overall concept is needed.²⁷

1.2.2 Consult with experienced and knowledgeable stakeholders

Ongoing consultation is essential to a well-functioning NPoA in order to inform and improve working partnerships amongst the various departments and agencies. Women victim/survivors and NGOs experienced in addressing violence against women have a unique knowledge base that is invaluable in formulating policy and legislation and providing services. Consultation enables this knowledge base to be utilised and also serves to build partnerships and trust between governments and NGOs. UNIFEM has noted that in many countries:

A lack of trust between government officials and NGOs [...] can prevent the kind of dialogue necessary to implement a complex plan. NGOs are particularly important; they are often best placed to serve as monitors of government policy. They are commonly the primary service providers to women survivors of violence and are well placed to identify and suggest remedies for obstacles women encounter in seeking assistance.²⁸

1.2.3 Address sex discrimination

The broad philosophical framework in which violence against women is conceptualised in an NPoA is significant, as it has a bearing on the emphasis given to particular areas of intervention.

Amnesty International believes an NPoA should take a human rights–based approach, focusing on women’s right to live free from violence, rather than on secondary issues such as protecting the family unit or strengthening community. In order to achieve this right, Amnesty International believes that an NPoA must address the structural causes of violence against women in gender inequality and must place women’s safety, protection and autonomy at its heart.

Violence must be understood and defined from the standpoint of the women and girls who experience it. [...] Any framework to tackle violence against women and girls should aim at all points to empower women and challenge abusive men. The empowerment of women and girls can only be achieved if the legacies of permission (both explicit and implicit) and cultures of justification which men have used for centuries are removed.²⁹

If the common underlying causes and consequences of all forms of violence against women are not taken account of, important opportunities for prevention, intervention and appropriate criminal justice responses are missed. It also means that any approach taken to address specific forms of violence against women will be more of a ‘band aid’ solution than one that will result in long-lasting change. An NPoA on violence against women should therefore:

- seek to create long-term change by addressing the common underlying causes and consequences of violence against women in structural inequalities between men and women
- be situated within a broader government strategy for women’s advancement and gender equality
- place women’s safety and autonomy at the centre of all actions
- challenge abusive men, acknowledging and addressing the individual responsibility of perpetrators within a broad structural analysis
- take a human rights–based approach, focusing on women’s right to live free from violence.

Box 5 International good practice: action plans

Germany’s second Action Plan of the Federal Government to Combat Violence against Women takes such an approach and is deeply influenced by a feminist perspective. There are a number of other plans internationally that similarly draw on a gender and human rights–based analysis of violence against women in their formulation.³⁰

2. Strategic

As a 'plan' an NPoA must also be strategic: a blueprint for ending violence against women. It should set an overarching government agenda, provide leadership and drive change, and have a defined set of objectives, activities and commitments. The strategy should be integrated and consistent across federal and state/territory governments, and across government departments.

2.1 Targets, evaluation and accountability

An NPoA should set specific targets in a specific time frame, and should identify resources and delegate responsibilities.

Those targets should then be the basis of indicators for measuring progress. According to the Council of Europe:

A fully developed Plan of Action will spell out the measures, name priorities and set a baseline for monitoring. It is also useful when the current situation is described towards which measures are directed. Examples are: giving the number of refugees existing before stating that their number will be increased; outlining the deficits in the current laws or their application as the point of departure for specific legal amendments or reforms. This allows monitoring whether the changes do remedy the deficits.³¹

The Council of Europe has stressed that targets need to be specific and appropriately delegated, established after broad consultation, and evaluated and reviewed every year.³² While acknowledging that such targets and time frames will vary according to national contexts, the council set out the following basic goals to be achieved in the first three years of an NPoA:

- the legal framework will have been reviewed
- shelters, crisis services and advocacy projects will have been expanded and adequately resourced
- a zero tolerance³³ philosophy will have been widely discussed and adopted by relevant organisations
- a national training initiative for professionals will have been developed and implemented
- the attrition rate in reported cases will have decreased
- the number of domestic homicides will have been reduced.³⁴

Box 6 International good practice: targets and timeframes

The level of detail of targets and timeframes in international NPoAs varies, but Amnesty International's consultation showed that the NPoAs in Brazil, Indonesia, Denmark, Norway, Scotland, Spain and Switzerland all have well-defined targets, designate the ministries and departments responsible for delivery and describe the timeframes in which they are to be reached. New Zealand's Action Plan on Community and Sexual Violence outlines goals and objectives for each thematic area, although it lacks measures and/or indicators to assess progress relative to these objectives. The plan also lays out key current and planned initiatives, identifies gaps and new actions, and indicates the key agencies responsible for the actions and the year the actions will be undertaken.³⁵

2.2 Monitoring and accountability

Related to the principle of setting targets and evaluating progress is the need to monitor NPoAs.

Monitoring in this context refers to the structures or bodies established to oversee the implementation of the NPoA as a whole, and to review and guide it over the years. A schedule and procedure for revision should be developed in consultation with the sector. Structures and bodies responsible for implementation and reporting must be clearly identified to ensure the plan is implemented faithfully.

The Council of Europe recommends that local standing committees set themselves achievable three-year plans in line with the timelines and objectives of the NPoA, and report each year on progress. Then:

[w]here a national observatory or institute is established one of its designated tasks would be to monitor all such reports. Where there is no such body, a national (and where relevant, regional) standing committee should examine all these reports. Either of these bodies should highlight those areas which have achieved (and exceeded) the targets, and areas where progress has been less effective, and suggest new local and national targets.³⁶

Box 7 International good practice: monitoring and accountability

NPoAs in other countries sometimes use additional or alternative methods of reporting, such as the reporting process for CEDAW³⁷, although this does not necessarily meet accountability requirements to domestic stakeholders. One example of good practice in reporting would appear to be the Norwegian Government's listing of NPoA targets on its departmental website, which includes regular updates on progress.

However, there is a paucity of international guidance on the issue of monitoring. While all monitoring structures acknowledged some form of formal accountability process, very few had formally evaluated or monitored the implementation of the plan as a whole. The risk here was that problem areas were left unidentified and successful initiatives ignored, undermining the ability of government and the sector to develop and strengthen the plan as time went on.

3. Sustained

A violence against women NPoA needs to be sustained. An Amnesty International consultation³⁸ found that the best value and incremental change were achieved from NPoAs which had ongoing, rolling programs and no gaps. Given that violence against women is a deeply entrenched social problem unlikely to be resolved in a single political term or funding cycle, an Australian NPoA should put in place systems that allow for its own sustainability, including permanent leadership bodies and, most importantly, a designated, ongoing and protected funding regime.

3.1 Permanent leadership bodies

Amnesty International's consultation found that, in at least two countries where an NPoA had been developed, the lack of permanent leadership bodies meant that political changes, such as the departure of a key minister, undermined the full implementation of measures.

The establishment of permanent forums and structures for leadership and strategy-building not only facilitates coordination but allows for the possibility of long-term thinking, essential to the sustainability of the plan.

Several national conferences and forums have called for the establishment and ongoing funding of a similar organisation across the states and territories in Australia. While national umbrella bodies such as the Women's Services Network and the National Association of Services Against Sexual Violence have taken on important leadership roles (including the development of the National Standards of Practice Manual for Service against Sexual Violence), their activities are limited by the lack of substantial ongoing funding. In order to ensure a sustained, coordinated response to violence against women, an NPoA should support representative national organisations to create a permanent, multisectorial leadership body, whose mandate encompasses all forms of violence against women.

Box 8 International good practice: leadership forums

In Europe, the European Policy Action Centre on Violence against Women provides a forum for women's NGOs throughout the member states to enable them to better inform policy and decision-makers. This work has been instrumental in facilitating and developing a coordinated approach to violence against women within the European Union.³⁹

3.2 Substantial, ongoing funding

Substantial and ongoing funding is perhaps the most important single element of an effective NPoA and in fact is a requirement of both the Declaration and the Beijing Platform for Action⁴⁰.

Inadequate funding was the most frequently cited impediment to the overall success of international NPoAs in a consultation undertaken by Amnesty International's UK section. This concern was expressed not only by those in women's NGOs, but also by those in government and policy positions. In Germany, for example, the problem was clearly identified as a lack of a budget commitment in the NPoA. UNIFEM's research on the implementation of NPoAs internationally similarly found that:

As with legislation, a plan of action is only as good as the effort and resources invested in implementing it. [...] Lack of resource allocation [is] a prime culprit in countries that have made the least progress.⁴¹

The sustainability of systems that work to prevent and respond to human rights abuses requires the allocation of public funding across several domains, including education, health, policing, judicial and service sectors. Resources are required to ensure access to and delivery of services for victim/survivors of abuse, who may feel isolated or who may need support to deal with the complex and devastating impact of violence within their own relationships and home. Such resources must also reach women disadvantaged by geographical isolation, or who have limited English language skills, or who have difficulty accessing services because of disability, carer responsibilities or lack of money.

An NPoA therefore necessitates an ongoing, strategic funding regime, with the overall aim of reforming the systems, attitudes and practices which allow violence against women to continue, or which fail to respond adequately to its consequences.

The Council of Europe encourages the development of gender budgeting specifically for the work on violence against women, in order to improve financial reporting and to measure cost effectiveness of funds.⁴² Although it is not possible to quantify how much money is needed to end violence against women, funding should reflect the seriousness of the problem and be based on research. A significant amount of money should also be dedicated to prevention efforts, such as education and awareness-raising. The allocation of such resources is considered an important measure of a government's commitment to meeting due diligence to uphold human rights on its territory.

Funding for previous initiatives in Australia has generally been short term and project based (creating what has been termed in the sector a 'pilot project virus'). This style of funding does not allow for expansion or development of successful initiatives, nor does it address the structural change required to end violence against women. Guidelines from international organisations, supported by international good practice, recommend that the funding of an NPoA be:

- designated – the budget should be established at the outset, and designated specifically to the plan as a whole. It should include funds to maintain support structures, such as coordination bodies, and allow for evaluation, standard-setting, and nationwide implementation of good practice.
- significant – funding should reflect the seriousness and the scale of the problem, and should be based on research. As a loose comparison, average spending by European countries on national-level efforts specifically nominated to fight violence against women is about \$14,000 per 10,000 people annually (with the Republic of Ireland currently allocating the greatest level of funding at \$62,570 per 10,000 people annually).⁴³ The Federal Women's Safety Strategy, as it stands, appears to total less than two thirds of this average – about \$9,300 per 10,000 people annually. **Ref this figure?**
- whole-of-government – funding should be part of the budgets of all government departments and agencies.
- protected – the budget must be protected from the possibility of it being 'poached' for other initiatives or tangentially related projects or kept aside for the next budget cycle.
- ongoing – the commitment of resources must reflect the culturally entrenched nature of violence against women and the long-term action required to end it.

Box 9 Principles of an NPoA: the European model

An earlier Council of Europe research report⁴⁴ informed the council's recommendation Rec (2002)5, distilling detailed principles for strategic policymaking based on the 'zero tolerance' concept taken from the Canadian national action plan.⁴⁵

We propose that all countries adopt the following principles:

- Equality and freedom from violence are rights of all women and children, and it is the responsibility of every individual, community, government and institution to work towards securing those rights.
- The elimination of violence will best be achieved through the adoption and rigorous application of a policy of zero tolerance.
- No amount of violence is acceptable, and the elimination of violence against women and children must be an absolute priority.
- The taboos on speaking about violence, naming the gendered distribution of victimisation and offending and recognising its prevalence must be broken at all levels in societies and communities.
- Violence must be identified and defined from the perspective of women's and girls' experiences.
- Those with responsibility for public safety have an obligation to take the most comprehensive and effective action possible to prevent violence from happening and to limit the harm from violence when it has occurred, including the use of prosecution and sanctions.
- Sexist and racist practices and other forms of discrimination and bias which encourage or support acts of violence must be eliminated.
- The rights of the victims in the legal system must be at least equal to the rights of the accused.
- Victims must not be blamed for the violence committed against them.
- Governments⁴⁶, ministries⁴⁷ and institutions⁴⁸ have a primary responsibility to demonstrate leadership and provide resources to empower women, achieve equality and end violence. This must be done in partnership with women's organisations and NGOs which focus on violence against women.
- Individuals and all communities have a responsibility to work toward ending violence and achieving equality for all.

¹ United Nations General Assembly (2007) *Intensification of Efforts to Eliminate All Forms of Violence against Women*, A/RES/61/145, Article 8. Available at: <http://daccessdds.un.org/doc/UNDOC/GEN/N06/503/01/PDF/N0650301.pdf?OpenElement>

² The term 'good practice' is preferred over 'best practice', as the latter implies – incorrectly – that a single approach or set of policies will meet the needs of every situation and every community.

³ *Convention on the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, GA res. 34/180 (1979) (entered into force 3 September 1981), General Recommendation No. 19 (11th session, 1992).

⁴ *Convention on the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, GA res. 34/180 (1979) (entered into force 3 September 1981), General Recommendation No. 19 (11th session, 1992), para 9.

⁵ *Declaration on the Elimination of Violence against Women*, GA res. 48/104 (1993), art 4(c).

⁶ Beijing Declaration and Platform for Action: Report of the Fourth World Conference on Women, UN Doc A/CONF177/20 (1995) and A/CONF177/20/Add 1 (1995).

⁷ Amnesty International (2004) *Making Rights a Reality: The Duty of States to Address Violence Against Women*, Amnesty International, London.

⁸ Mouzos, J and Makkai, T (2004) *Women's Experiences of Male Violence: Findings from the Australian Component of the International Survey on Violence Against Women*, Australian Institute of Criminology, Research and Public Policy Series No. 56, Canberra.

⁹ VicHealth (2004) *The Health Costs of Violence: Measuring the Burden of Disease Caused by Intimate Partner Violence*, VicHealth, Melbourne.

¹⁰ The judgements of international bodies have filled in some of the blanks. For example, the Inter-American Commission on Human Rights, in the case of *Maria da Penha Maia Fernandes (Brazil)*, articulated clear indications as to the requirements of due diligence in the area of domestic violence. The Commission recommended:

- a. Measures to train and raise the awareness of officials of the judiciary and specialized police so that they may understand the importance of not condoning domestic violence.
- b. The simplification of criminal judicial proceedings so that the time taken for proceedings can be reduced, without affecting the rights and guarantees related to due process.
- c. The establishment of mechanisms that serve as alternatives to judicial mechanisms, which resolve domestic conflict in a prompt and effective manner and create awareness regarding its serious nature and associated criminal consequences.
- d. An increase in the number of special police stations to address the rights of women and to provide them with the special resources needed for the effective processing and investigation of all complaints related to domestic violence, as well as resources and assistance from the Office of the Public Prosecutor in preparing their judicial reports.
- e. The inclusion in teaching curricula of units aimed at providing an understanding of the importance of respecting women and their rights recognised in the Convention of Belém do Pará, as well as the handling of domestic conflict.

Maria da Penha Maia Fernandes (Brazil) (2001) 12.051 Inter-Amer Comm HR, 54/01, VII(4).

¹¹ Council of Europe, *Recommendation Rec(2002)5 of the Committee of Ministers to Member States on the Protection of Women against Violence*, adopted by the Committee of Ministers in April 2002, Appendix, para 3.

¹² United Nations Development Fund for Women (UNIFEM) (2003) *Not a Minute More: Ending Violence against Women*, United Nations Development Fund for Women, New York, pp. 52–3.

¹³ *ibid*, p. 59.

¹⁴ Council of Europe, Group of Specialists for Combating Violence against Women (2000) *Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women*, EG-S-VL (97) 1, pp. 46–7.

¹⁵ *ibid*.

¹⁶ Council of Europe, Group of Specialists for Combating Violence against Women (2000) *Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women* EG-S-VL (97) 1, p. 93.

¹⁷ Reported in the consultation undertaken in 2005 by the Amnesty International's UK section as background research for that section's campaigning.

¹⁸ Goldfarb, S F (2005) 'Combating Violence against Women in the Legal Domain,' expert paper prepared for United Nations Division for the Advancement of Women, *Violence against Women: Good Practices in combating and eliminating violence against women* expert group meeting, Vienna Australia, May 2005.

¹⁹ United Nations General Assembly (2007) *Intensification of Efforts to Eliminate All Forms of Violence against Women*, A/RES/61/145, Article 8(g).

²⁰ Australian Institute of Health and Welfare (AIHW) (2006) *Family Violence among Aboriginal and Torres Strait Islander Peoples* Australian Institute of Health and Welfare. Available at: www.aihw.gov.au/publications/index.cfm/title/10372

²¹ Ursula von der Leyen, German Federal Minister of Family Affairs, Senior Citizens, Women and Youth, in the Second Action Plan of the Federal Government to Combat Violence against Women, 2007, p. 4.

²² *ibid*, p. 25–30.

²³ New Zealand Ministry of Justice (2004) *Safer Communities: Action Plan to Reduce Community Violence and Sexual Violence*, Ministry of Justice, Wellington, p. 64.

²⁴ Council of Europe, *Recommendation Rec(2002)5 of the Committee of Ministers to Member States on the Protection of Women against Violence*, adopted by the Committee of Ministers in April 2002, point III.

²⁵ *ibid*, Explanatory Memorandum, para 54.

²⁶ *Beijing Declaration and Platform for Action: Report of the Fourth World Conference on Women*, UN Doc A/CONF177/20 (1995) and A/CONF177/20/Add 1 (1995), Section D: Violence against Women.

113. The term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. Accordingly, violence against women encompasses but is not limited to the following:

- a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

114. Other acts of violence against women include violation of the human rights of women in situations of armed conflict, in particular murder, systematic rape, sexual slavery and forced pregnancy.

115. Acts of violence against women also include forced sterilization and forced abortion, coercive/forced use of contraceptives, female infanticide and prenatal sex selection.

²⁷ German Federal Government (2006), Response to the Secretariat's request for information regarding General Assembly resolution 58/185 in preparation for the Secretary-General's in-depth study on all forms of violence against women.

²⁸ United Nations Development Fund for Women (UNIFEM) (2003) *Not a Minute More: Ending Violence against Women*, United Nations Development Fund for Women, New York, p. 58.

²⁹ *Ibid*.

³⁰ German Action Plan on VAW:

<http://www.bmfsfj.de/bmfsfj/generator/RedaktionBMFSFJ/Broschuerenstelle/Pdf-Anlagen/aktionsplan-Illegale-gegen-frauen-englisch,property=pdf,bereich=sprache=de,rwb=true.pdf>

³¹ Council of Europe, Directorate General of Human Rights (2006) *Combating Violence against Women: Stocktaking Study on the Measures and Actions Taken in Council of Europe Member States*, CDEG (2006) 3, p. 26.

³² Council of Europe, Group of Specialists for Combating Violence against Women (2000) *Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women EG-S-VL (97) 1*, p. 46.

³³ Term taken from the Canadian national action plan, meaning that 'no level of violence is acceptable, and women's safety and equality are priorities,' Canadian Panel on Violence against Women (1993) *Changing the Landscape: Ending Violence – Achieving Equality*, Ministry of Supplies, Ottawa.

³⁴ Council of Europe, Group of Specialists for Combating Violence against Women (2000) *Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women EG-S-VL (97) 1*, p. 93.

³⁵ New Zealand Ministry of Justice (2004) *Safer Communities: Action Plan to Reduce Community Violence and Sexual Violence*, Ministry of Justice, Wellington.

³⁶ Council of Europe, Group of Specialists for Combating Violence against Women (2000) *Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women EG-S-VL (97) 1*, p. 93.

³⁷ *Convention on the Elimination of All Forms of Violence against Women*, opened for signature 18 December 1979, GA res. 34/180 (1979) (entered into force 3 September 1981).

³⁸ Undertaken in 2005 by Amnesty International's UK section as background research for that section's campaigning.

³⁹ Cited as good practice in Coomaraswamy, R (2002) *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, Addendum 1. International, Regional and National Developments in the Area of Violence against Women 1994-2003*) Report of the Special Rapporteur on violence against women, its causes and consequences, submitted in accordance with Commission on Human Rights resolution 2002/52, pp. 396-7, paragraph 2169.

⁴⁰ Declaration on the Elimination of Violence against Women, GA res. 48/104 (1993), art 4(h) and Beijing Declaration and Platform for Action: Report of the Fourth World Conference on Women, UN Doc A/CONF177/20 (1995) and A/CONF177/20/Add 1 (1995). section D, paragraph 124.

⁴¹ United Nations Development Fund for Women (UNIFEM) (2003) *Not a Minute More: Ending Violence against Women*, United Nations Development Fund for Women, New York, p. 57.

⁴² Council of Europe, Steering Committee for Equality between Women and Men (2007) *Protecting Women against Violence: Analytical Study on the Effective Implementation of Recommendation Rec (2002)5 on the Protection of Women against Violence in Council of Europe Member States*, CDEG (2007) 3 rev, p. 43.

⁴³ Council of Europe, Directorate General of Human Rights (2006) *Combating Violence against Women: Stocktaking Study on the Measures and Actions Taken in Council of Europe Member States*, CDEG (2006) 3, p. 29.

⁴⁴ Council of Europe, Group of Specialists for Combating Violence against Women (2000) *Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women EG-S-VL (97) 1*, pp. 41-2.

⁴⁵ Term taken from the Canadian national action plan, meaning that 'no level of violence is acceptable, and women's safety and equality are priorities,' Canadian Panel on Violence against Women (1993) *Changing the Landscape: Ending Violence – Achieving Equality*, Ministry of Supplies, Ottawa.

⁴⁶ This includes all levels of government – federal, state/territory and local.

⁴⁷ All ministries should be required to address the implications for women's equality and safety of any policy or legislative proposal, as well as producing their own strategies to create zero tolerance.

⁴⁸ Included here are government institutions, professional bodies, private companies, NGOs and community associations. Commitment to zero tolerance throughout all levels of societies must be created.

Good Practice in Content: Prevention, Provision, Prosecution

The areas of action, or ‘content,’ of a good practice NPoA will be highly detailed and take time to develop, and will be subject to ongoing review. The detailed policy-making, and the associated tasks of strategising, costing and timing, is not, of course, the role of Amnesty International, and is beyond the scope of this research. While Amnesty International does not intend to prescribe the content of an Australian NPoA, this section of the report aims to identify the areas for action and define the scope of the plan in a human rights framework. It explains the principles of good practice in various content areas, and, where appropriate, provides international examples of initiatives that embody those principles.

The overarching aim of a good practice NPoA is to end violence against women. The goal is a society in which violence against women no longer occurs at all. This indicates that much of the focus of an NPoA should be on the prevention of violence against women, and all the efforts at socio-structural change that this entails. However, until prevention efforts come to fruition, we have to respond to the violence that does occur. A human rights-based response to such violence demands action on two levels. First, a response to the victim/survivor, who has the right to all necessary services, to protection from further violence, and to just reparations for harm suffered. Second, a response to the crime itself: the human rights abuse requires, for the sake of society and the victim/survivor, that the perpetrators be brought to justice. The content of an NPoA should therefore cover the three key areas of: *prevention*, *provision* (or protection) and *prosecution*.⁴⁹ Amnesty International has used this division to frame content for an NPoA in human rights terms, but it should be remembered that the three areas are interrelated and require a coordinated approach. The implications for national governments are as follows.

Prevention – an NPoA should aim to end violence against women, not merely to ‘reduce’ or ‘respond’ to it. This requires long-term strategies, such as education and public awareness-raising, to change deeply entrenched cultural attitudes and, eventually, preclude violence against women.

Provision – an NPoA needs to ensure that victim/survivors can access services for their physical, mental and social wellbeing, and that they are protected from further violence.

Prosecution – an NPoA must ensure that all forms of violence against women are investigated, prosecuted and punished in accordance with the gravity of the crime, and that victims receive appropriate remedies. Where there is systematic failure to prosecute and convict perpetrators (in cases of rape and sexual assault, for example), the plan must identify and remove obstacles to the delivery of justice. Importantly, the process of delivering justice must not re-victimise women, and should be at least as attentive to the victim/survivor’s needs as to those of the perpetrator.

Amnesty International has used this division of issues to frame the content of an NPoA, but it should be remembered that the three areas are interrelated and require a coordinated approach.

The Australian constitutional division of powers means that some initiatives outlined here will be more suitable for carriage by the federal government than others. Media campaigns, for example, are relatively unproblematic to drive at a federal level; criminal justice initiatives, however, lie within state/territory jurisdiction, and are not as easily ‘captured’ by a national plan. It is, therefore, essential that an NPoA implement structures for cooperation between federal and state/territory governments, and that responsibilities be clearly identified.

Indicators should be developed in each area against which interventions can be evaluated; for example, conviction rates, the number of shelter places or community attitudes. Targets set under the NPoA should be monitored by the federal government, to ensure that they are met nation wide. Consistency across all jurisdictions should be the aim, in areas including:

- good practice in service provision
- violence prevention programs in schools
- judicial procedures and police processes
- laws on all forms of violence against women.

Only the federal government can provide the structures and resources to set minimum standards in these and other areas. And the government is obligated to do so, given Australia's human rights responsibility to exercise due diligence on violence against women.

4. Prevention

Prevention of violence against women is the keystone of an NPoA. The elimination of violence against women can only be achieved through comprehensive prevention programs. Prevention programs usually disseminate information about the legal rights and services available to women experiencing violence, so such programs are also essential in stopping existing violence against women.

The elimination of prejudices is considered essential to the prevention of violence against women, and is a responsibility under international law. Upon ratifying CEDAW, Australia committed itself to taking:

All appropriate measures [to] modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.⁵⁰

The World Health Organisation's ground-breaking research *World Report on Violence and Health* notes unequivocally that:

Violence can be prevented and its impact reduced [...] The factors that contribute to violent responses – whether they are factors of attitude and behaviour or related to larger social, economic, political and cultural conditions – can be changed.⁵¹

Despite such evidence, the UN Special Rapporteur on Violence against Women, its Causes and Consequences, has lamented how little preventive work has been carried out by state parties to CEDAW. State interpretations of the convention tend to focus on formal legal equality, and 'relatively little work [has been] done on the more general obligation of prevention'.⁵² The responsibility this obligation imposes on states – to create socio-cultural change – poses a challenge to liberal ideas of the role of government, but the human rights argument is clear: one of the primary responsibilities of states is the protection of their citizens. Australian governments have worked hard to change the attitudes and behaviours that contribute to other socially harmful practices, such as drink driving or smoking. A similar commitment to change attitudes and behaviour through education and awareness-raising can be used to end violence against women.

Prevention strategies can only be effective if they engage all members of the community. The UN insists that measures specifically targeted to the needs of marginalised groups are essential in this field and calls on states to:

take positive measures to address structural causes of violence against women and to strengthen prevention efforts that address discriminatory practices and social norms, including with regard to women who need special attention in the development of policies to address violence, such as women belonging to minority groups, including those based on nationality, ethnicity, religion or language, indigenous women, migrant women, stateless women, women living in underdeveloped, rural or remote communities, homeless women, women in institutions or in detention, women with disabilities, elderly women, widows and women who are otherwise discriminated against.⁵³

Primary prevention initiatives, such as public awareness-raising and education, are known to work. Recent Australian research has confirmed that:

The prevention of violence against women is not an aspirational goal but, rather, is well within our reach. We now know that practice in the prevention of violence against women has an evidence base, sound rationale for action and support for development by government, non-government, philanthropic and corporate sectors.⁵⁴

Active consultation with organisations having a wide knowledge and long experience in the area of violence against women is essential, especially when entering the complex territory of violence prevention initiatives. Such organisations should be supported to undertake their own awareness-raising work, and to participate in national-level collaborative initiatives. The Beijing Platform for Action calls on governments, with the help of other sectors such as the media, to:

*Support initiatives of women's organisations and non-governmental organisations all over the world to raise awareness on the issue of violence against women and to contribute to its elimination.*⁵⁵

The UN Division for the Advancement of Women, in its report *Good Practice in Combating and Eliminating Violence against Women*, calls on national governments to provide 'free national media space/time for violence against women campaigns, and sensitivity to gender stereotyped programming'.⁵⁶

Some of the most innovative and practical work in the field of violence prevention in recent years has been undertaken by public health organisations. In Australia, important theoretical groundwork on primary prevention of violence against women has been conducted by the Victorian Health Promotion Foundation (VicHealth), which prioritised the prevention of violence against women after finding that violence by an intimate partner was the most significant risk factor for the health of women aged 15 to 44 years.⁵⁷ The organisation recently released a framework and background paper to guide the primary prevention of violence against women in Victoria⁵⁸, centred on three 'action themes':

- promoting equal and respectful relations between men and women
- promoting non-violent social norms and reducing the effects of prior exposure to violence
- promoting access to resources and systems of support.

The VicHealth material offers the first comprehensive framework for primary prevention of violence against women, addressing institutional, community and individual audiences. It encompasses public awareness-raising activities, education, and other community-based initiatives, and provides guidance for planning, implementing and monitoring these activities. Work on the development of an evidence-based framework to support future prevention efforts is ongoing, but the framework has already been submitted to the Victorian Government and could serve as a useful resource to those developing prevention initiatives for an NPoA.

Prevention efforts take many forms, and are most successful when several approaches are used in concert. 'Prevention' can encompass a wide range of activities, including legal processes and social services that deter perpetrators or protect women from further violence. In this report, we limit our discussion to two 'primary' prevention activities: schools-based education and public awareness-raising.

4.1 The education system

*Equality, partnership between women and men and respect for human dignity must permeate all stages of the socialisation process. Educational systems should promote self-respect, mutual respect, and cooperation between women and men.*⁵⁹

There are many social and developmental reasons for concentrating violence-prevention efforts in the education system, particularly high schools.⁶⁰ An NPoA should include a comprehensive, well-designed education strategy, teaching young Australians to recognise and reject violence and discrimination, so that they can build healthy, respectful relationships. The research on 'what works' in anti-violence education programs makes it clear that effective programs require several things: large-scale, cross-portfolio planning; ongoing development; and considerable resources. The commitment is worth it, as education can

break the cycle of abuse for future generations. It should be seen as the keystone of the NPoA. Without education, the plan can never achieve the aim of ending violence against women.

Hindrances to good practice in anti-violence education in Australia have been identified, including the fact that, on a national level, 'there is no systematic approach to delivering in-school prevention, and no efficient method of utilising the existing evidence'.⁶¹ Many of the current educational initiatives are run by organisations experienced in the area of violence against women. In most cases, however, only short-term or even one-off workshops are provided. These educational programs are limited by the demands of the existing curriculum and by the time available in sex/health education modules. While positive in their methodologies and approaches, these interventions can only have a long-term effect on student attitudes and behaviour if they are sustained over a period of years, and supported by a 'whole-school' approach.

Through the NPoA, the federal government can take leadership on this issue, providing curricular models, materials and examples of good practice, and working with the states and territories to ensure good practice is implemented nationally. Such actions should coordinate with state-wide violence strategies, the national safer schools strategy and gender equity frameworks.⁶² National standards or guidelines should be created to ensure that schools-based programs reflect good practice standards and that they 'address the level of discretion at individual school sites', which is a critical factor in the nature of current programs. Nationwide performance indicators, against which schools are required to report, should form part of the NPoA guidelines.⁶³

Box 10 Good practice principles: education

Schools-based education programs designed to encourage healthy relationships and prevent violence against women have a growing evidence base indicating their effectiveness when certain conditions are met. A good practice education strategy:

- is incorporated in the curriculum at all levels, in every school across the country
- involves the whole school: teachers, student welfare coordinators, sporting clubs, community groups and parents
- involves partnerships between state/territory departments of education and specialist agencies
- develops national standards, guidelines and performance indicators against which schools report
- utilises existing schools-based prevention programs, where possible
- includes comprehensive training for all teachers
- provides 'the space and time to set up and evaluate [programs] systematically, to monitor the progress made and identify any adjustments required'⁶⁴
- provides schools with resources and facilities, such as materials, scheduling adjustments, human resources and expert advice
- supports school protocols to deal with violence, harassment and bullying⁶⁵, and coordinates with state-based anti-violence strategies, the national safer schools strategy and gender equity frameworks.

Box 11 International good practice: education

Examples of good practice at the program level are numerous, both internationally and in Australia.⁶⁶ However, few national governments have implemented the ‘whole-school’ approach referred to above. The EU Good Practice Guide found that anti-violence education was ‘gradually’ appearing in school curricula and teacher training, but that it was ‘not by any measure systematic or general practice’.⁶⁷

The EU Good Practice Guide was unable to nominate a ‘model strategy’ in any of the EU member states, but it did identify good practice by national governments in particular areas. For example, Germany was considered to have good practice in developing educational programs designed to break the potential for intergenerational recurrence of domestic violence. Despite not dealing with all forms of violence against women, nor being integrated into the curriculum, the German programs did meet good practice in involving a number of stakeholders and working towards a ‘whole-school’ approach. Materials were designed for teachers, parents and all those working with young people, based on the fact that all of these groups needed to ‘set examples of strategies free of violence to solve personal conflicts and convey, in the treatment of people, a culture of non-violence’.⁶⁸

Consultation levels were also high, with a Federal Working Group against Domestic Violence overseeing the programs and a sub-committee of people with special skills in the fields of school education and youth services commissioned to develop school modules. The modules were designed to support students who had been victims of, or witnesses to, violence, as well as provide gender-specific training in non-violent conflict-resolution strategies.⁶⁹ Pilot programs were run, geared to fostering communication and conflict-solving skills, self-esteem, personal responsibility and the need to change the stereotypes that lead to violence. The first stage of the German program was due to end in May 2008, with an evaluation report due to be published soon afterwards.⁷⁰

4.2 Public awareness

Public awareness campaigns, like education, can challenge deeply held prejudices contributing to violence against women, as well as provide information about support services. The EU Good Practice Guide noted that all European countries have conducted some form of awareness-raising and found that, while ‘systematic evaluation of the impact is not general practice, where such evaluations were conducted [...], the results proved to be even better than expected’.⁷¹

The most significant national awareness-raising initiative on violence against women in the Australian context over recent years has been the *Violence against Women: Australia Says No* campaign. While it was pleasing to see an awareness-raising campaign at this level, a more sustained initiative, following good practice models, is required – particularly as this initiative focussed more on responding to violence against women than preventing it. No existing or recent Australian campaign challenges sexist models and prejudices, which have been identified as the key cause of violence against women. There is also a concern in the sector that existing campaigns have not adequately consulted with organisations working on violence against women, and have failed to provide increased funding to women’s organisations to meet the increased demand generated by public campaigns.

Box 12 Good practice principles: public awareness

The EU Good Practice Guide contains guidelines for awareness-raising campaigns.⁷² The guide reiterates that governments should support women's organisations and NGOs in their work, and recommends that public awareness campaigns be widespread, sustained, and use all available media. The guide emphasises that campaigns must challenge sexist models and prejudices: otherwise, target audiences 'may tend to feel detached from what they regard to be a marginal problem, in which only men with special problems are involved'.⁷³

'Good practice' public awareness-raising campaigns:

- use all available media
- are sustained
- are widespread (in schools, colleges, citizen's forums and workplaces)
- are developed in consultation with the sector
- challenge the key causes of violence against women: inequality, sexist models, prejudices and power imbalances
- stress that violence occurs on a continuum, including psychological abuse, controlling behaviours and humiliation
- make links between the different types of violence against women, such as rape, sexual harassment, domestic violence and sexual abuse
- sensitise the public about the societal effects of violence against women
- enhance the awareness of actual and potential victims of violence, so they can protect themselves and break away from violent situations
- direct survivors to services specialising in violence against women
- include funding to women's organisations to meet the increased demand generated by the campaigns
- provide information about women's legal rights to protection orders and about women's refuges and specialist sexual assault services.⁷⁴

Box 13 International good practice: public awareness

The Scottish Zero Tolerance campaign was identified as good practice in both the UN Secretary General's Study on Violence against Women⁷⁵ and the UN Division for the Advancement of Women's good practice guide.⁷⁶ The campaign has also been recommended strongly by the Council of Europe's Group of Specialists for Combating Violence against Women as a model prevention and education project'.⁷⁷

Scotland's Zero Tolerance campaign is a sustained national campaign, linking rape, sexual harassment, domestic violence and child sexual abuse. Undertaken by an NGO (the Zero Tolerance Trust) and supported by the state, the campaign drew on graphic design and social marketing techniques, using inviting images alongside uncompromising slogans, such as 'No man has the right', which were displayed on billboards, buses and in other public places. The first phase ran over five years.

The campaign was run on the following guiding principles:

- target everybody – not just perpetrators and victims of violence. The campaign challenged all men to take responsibility for male violence and empowered women to resist abuse
- make the links between different forms of violence against women, including rape and sexual assault, domestic violence and child abuse
- stress the importance of long-term public awareness-raising as key to any strategy to prevent male violence against women
- recognise that the causes of violence against women are based on wider inequalities and power relations in society
- tackle the root causes, and aim to prevent male violence before it happens.⁷⁸

The campaign was rolled out in several phases, and dealt with a broad range of issues, from structural equality in the criminal justice system to the long-term effect of trauma of victims of violence. Each phase of the campaign was linked to research and accompanied by work on the 'three Ps' (prevention, provision and prosecution). One phase, for example, involved working with young people through a program (RESPECT) that links violence against women to a range of discriminatory practices.

5. Provision

Victim/survivors of human rights abuses, such as violence against women, have the right to all necessary services and to protection from further violence. Services that provide for and protect women in the aftermath of abuse include (but are not limited to): crisis accommodation, medical assistance, counselling, child care, social services, advocacy and assistance with permanent housing. The provision of such services and protective measures is an international human rights obligation.⁷⁹ There are international legal requirements regarding the nature, quality and quantity of such services, and good practice principles have been developed which can guide an NPoA in this content area.

The 'provision' response to victim/survivors of violence also includes policies and laws that support women to leave violent situations and protect them (or their children) from further violence. At the federal level, this includes the operation of family law and of the welfare system.

The police also play an important role in protecting women from further abuse; this issue is covered in the next section, 'Prosecution'.

5.1 Places of safety

The right to places of safety is of particular relevance to victim/survivors of domestic violence, but is also necessary in some instances of sexual assault (particularly when perpetrators are family members), and in cases of trafficking and violence against women in institutions. This is the frontline, emergency response to a grave human rights abuse: if the response is inadequate, women are forced to live with, or return to, violence.

The ideal 'place of safety' is the woman's own home, with the perpetrator removed. As the architects of the German *Working together to Combat Domestic Violence* report (WiBIG) initiative put it, women should not have to live as refugees in their own country in order to escape violence.⁸⁰ An NPoA should develop a comprehensive strategy to provide victim/survivors of domestic violence with every opportunity to remain in their homes, by reviewing and evaluating existing state-level strategies and aiding the implementation of good practice models nation wide.

Nevertheless, the provision of emergency accommodation remains essential, as there are times when women's safety in their own homes cannot be assured. Adequately funded shelters should be provided, run by organisations with specialist experience in responding to victim/survivors of violence against women. In Australia, such services are at breaking point. On an average day, half of all such women who seek emergency accommodation are turned away, and others are reportedly in crisis accommodation for months on end.⁸¹ Services for Indigenous women are particularly under-funded, with safe houses reportedly non-existent in some remote areas, and under-resourced where they do exist.⁸²

There is a great need in Australia for emergency accommodation services for women, with particular regard to the needs of certain groups: women from culturally and linguistically diverse backgrounds; Indigenous women; children; the elderly; women with disabilities; lesbians; women in prostitution or who have been trafficked; and geographically isolated women.

The specialist women's refuge infrastructure should be strengthened, in order to ensure that women escaping violence are not isolated in motels or similar accommodation, and that they have access to systems of support. Emergency housing options are also required for women with male children, particularly teenagers. All emergency accommodation services need the capacity for 24-hour staffing, to ensure the safety of women fleeing violence and those already in the refuge.

Funding for emergency accommodation through the Supported Accommodation Assistance Program (SAAP) requires a significant increase and review. An evaluation of SAAP undertaken in 2004 suggested that a 15 per cent increase in funding would be necessary to sustain services at current levels. The evaluation estimated that a further 35-40 per cent funding increase would be necessary for the services to meet the current demand and effectively address the needs of people using services to obtain independent living.⁸³ These conclusions were not reflected in the 2005 funding agreement, which provided no growth in the overall level of funding and actually reduced the level of funding per service user.⁸⁴

Another significant problem is that children are not formally recognised as users of homeless services in their own right. This means that homeless services in Australia do not receive funding to support the children who use the service. Despite such lack of funding, in 2005/06, homelessness services supported 54,700 children, the vast majority under the age of 12, who were accompanying their parent(s) or another adult to the service.⁸⁵

There are also concerns that SAAP capital funding provided to address violence against women is not always allocated in ways which meet the needs of women and children escaping violence. For example, SAAP funding in some states is limited, in whole or in part, to registered housing providers, which do not provide the specific services essential to victim/survivors of violence against women. Organisations with specialist experience in responding to these needs are best placed to support victim/survivors in the immediate aftermath of abuse. However, these organisations might not be in a financial position to apply for registered housing provider status; in any case, such status would be inappropriate, considering the broader service framework under which they operate.

The NPoA must put into place the resources, systems and structures to meet good practice and measure progress against national targets. Targets should be set, for example, to increase the number of refuge places and decrease the average length of time victim/survivors are forced to spend in crisis accommodation. The Council of Europe has set a benchmark of one refuge place per 7,500 head of population (with a minimum of one place per 10,000 people) in order to ensure the safety of women escaping violence.⁸⁶ The NPoA should assess whether this benchmark is adequate in the Australian context, given the specific needs of remote and regional Australia. A further standard should be developed on the principle that no woman should be turned away from emergency accommodation when escaping violence. Provisions to meet this benchmark across the states and territories should then be made.

Box 14 Good practice principles: places of safety

The Council of Europe's Action Plan to Combat Violence against Women recommends that women's support centres have:

- broad coverage, with at least one place per 10,000 women
- qualified personnel, providing legal, psychological, social and occupational counselling
- child-care services provided by qualified childcare personnel
- provision for victims to stay as long as they require, regardless of their financial situation.

The council also recommends:

- aiming services towards women's empowerment and helping them find employment if necessary, especially if they have children to support
- overcoming disadvantage, particularly for socially stigmatised groups or those whose legal status is precarious
- adopting safety and protection measures
- acknowledging the decisive role played by NGOs, and choosing NGOs with a feminist outlook to manage the centres
- organising services from the standpoint of multi-institutional cooperation
- evaluating existing services designed to help violence victims.⁸⁷

Box 15 International good practice: places of safety

In Denmark, migrant women account for 35 per cent of victim/survivors accessing shelters, prompting the Danish government to earmark special funding for NGOs working with ethnic minorities, and for specific support programs in community languages to ensure these women's need are met.⁸⁸

In Austria, the focus is on ensuring the safety of victim/survivors of domestic violence in their own homes, by removing the perpetrator. Following the removal of a perpetrator, police are obliged to notify domestic violence services, who then contact the woman to offer a safety plan, legal and psycho-social assistance, and childcare. The woman can also go directly to the service for help and accommodation.⁸⁹

5.2 Integrated, specialised support and protection

In addition to places of safety, a wide variety of short-term and long-term services are required in order to support, empower and protect victim/survivors from further violence. These include: health, psychological and other counselling services; legal advocacy; training and employment assistance; assistance with permanent housing; language courses; and child care.

The UN Committee on Economic, Social and Cultural Rights (ECOSOC) has called on states to ensure that services for victim/survivors of human rights violations are:

- available (of sufficient quantity)
- accessible (without discrimination)
- acceptable (culturally appropriate and gender-sensitive)
- of appropriate quality.⁹⁰

The provision of services should be based on the philosophy that responding to violence against women is the responsibility of the state and the community; importantly, it should not be contingent on the victim/survivor to locate the services she needs. An integrated service response provides smooth and coordinated pathways, which minimise the ‘running around’ between services that victim/survivors would otherwise face.

An integrated response, however, does not mean that the specialised services offered by different agencies can be subsumed under a single model. The gendered analysis under which specialised women’s services have traditionally operated focuses on the responsibility of the perpetrator, and ensures that victim/survivors are never required to ‘manage’ the violence against them (for example, by participating in dispute resolution processes). At the 2004 *Home Truths: Stop Sexual Assault and Domestic Violence* national conference, a large number of delegates expressed concerns about the ‘mainstreaming’ of services for victim/survivors of violence against women.⁹¹

An integrated response differs from mainstreaming, in that services retain their specialised focus and roles, while cooperating to ensure that the response to victim/survivors is managed holistically, with an underlying focus on women’s safety and empowerment. Specialist services are critical to women from minority groups and those with particular needs. Indigenous women have argued for services that recognise the importance of kinship networks in Indigenous communities, and that take into account the realities of living in remote communities. Funding for Indigenous-specific services has been a major issue for service providers, with some remote-area services being run with no resources other than the worker’s wage.⁹² There is a particular need to ensure that Indigenous women victim/survivors of violence can access Indigenous-specific legal services. The Aboriginal Legal Service is unable to assist women victim/survivors if the service is also representing a perpetrator or respondent. A service specifically for Aboriginal women experiencing violence is required.

Immigrant women, particularly in regional areas, also find it difficult to access mainstream services, and would benefit from more culturally specific interventions. The Immigrant Women’s Domestic Violence Service has found that women in small communities had a low level of knowledge about service options; were mistrustful or fearful of the police; were concerned that if they accessed services they would be forced into action; and also feared that if they disclosed abuse, confidentiality would be broken and rumours would spread through the community.⁹³

Women with disabilities experience high levels of violence, and face a lack of information about violence and ways to address it, especially for women with cognitive disabilities. Greater collaboration is required between disability service providers and the family violence sector to overcome the barriers – physical and attitudinal – preventing women with disabilities from accessing family violence crisis services.⁹⁴

Box 16 Good practice principles: integrated service provision

The Council of Europe recommendation Rec (2002)5 emphasises the importance of coordinated, accessible services for victim/survivors of violence against women. It calls on member states to:

ensure that victims, without any discrimination, receive immediate and comprehensive assistance provided by a coordinated, multidisciplinary and professional effort, whether or not they lodge a complaint, including medical and forensic examination and treatment, together with post-traumatic psychological and social support as well as legal assistance; this should be provided on a confidential basis, free of charge and be available around the clock.⁹⁵

The European Women's Lobby has identified the following principles of an integrated, multi-agency response to victim/survivors:

- recognition of the particular expertise and skills that each partner agency brings, including the recognition of the vital role and input of NGOs
- clarity in the role and responsibility of each partner
- a clear mandate for each partner, enabling them to make and implement decisions
- quick responses, making the safety of women an utmost priority
- the resources to provide ongoing support to women
- professional guidance to help women explore their options, so they can make decisions at their own pace.⁹⁶

The good practice principles should be embodied an Australian NPoA, creating a service strategy that:

- integrates specialist women's services and non-specialist services
- implements nationally programs which have worked at the local level
- ensures that services can be accessed by all women, especially those from culturally and linguistically diverse backgrounds, Indigenous women, the elderly, women with disabilities, lesbians, women in prostitution or who have been trafficked, and geographically isolated women
- establishes national forums for service workers, to share good practice, develop policy and build capacity.

The NPoA also provides the opportunity to improve the quality and quantity of individual services. Some of the improvements that should be made include the following.

5.2.1 Accessibility

- make services for women better known and more easily and rapidly accessible
- ensure adequate numbers of telephone counsellors, so that callers are never diverted to an answering machine
- ensure remote areas are adequately covered, taking into account the fact that the more remote the service the greater the resource need in terms of transport, communications and networking costs.

5.2.2 Inclusion

- ensure all services are accessible for women with disabilities
- train disability and community service workers in responding to violence, the needs of women with disabilities, and the needs of women caring for children with disabilities who are at risk of, or experience, family violence
- introduce cultural diversity training for workers
- recruit Indigenous and ethnically diverse staff
- ensure the availability of interpreters and translators
- train interpreters on issues surrounding violence against women
- provide more resources in community languages.

5.2.3 Community involvement

- involve the whole community in the development of responses to violence against women
- improve community relations with police
- undertake outreach work, especially to marginalised groups.

5.2.4 Counselling services

- provide counselling not only for victim/survivors of recent violence, but also to survivors of childhood violence and sexual assault
- provide trauma recovery services for child victims and witnesses of violence.

5.2.5 Other services

- provide child care facilities
- provide transport for victim/survivors where necessary.

5.2.6 Forward planning

- build capacity
- set aside time for planning
- enable the professional development of workers.

Box 17 International good practice: integrated service provision

The *Working Together to Combat Domestic Violence* (WiBIG) project in Berlin was implemented under the German NPoA.⁹⁷ Although Berlin already had a number of shelters and counselling centres dedicated to abused women and their children, the WiBIG project was set up to reframe the problem, by defining domestic violence as an issue for the whole community, not for individual women.

The WiBIG project pursues prevention and reduction of domestic violence by coordinating procedures among institutions. It aims to make services for women better known, and more easily and rapidly accessible, and to give women more choices when escaping domestic violence. Strategies include fully utilising remedies under existing laws, while improving police and court procedures; and securing better protection and support for women and their children. The project is overseen by a broad alliance, including: shelters and women's advocacy projects; public administration; police; the justice system; child protection and welfare agencies; and perpetrator projects.

The WiBIG project is funded by the state, with structures to ensure the accountability of governmental departments and sector bodies. The main decision-making body is the Political Round Table, made up of governmental, administrative and non-governmental organisations and projects, meeting as equal partners. The European Women's Lobby (EWL) cites the organisational structure of the WiBIG project as good practice:

*Seven permanent working groups study central areas of policy and work out detailed proposals for specific procedures, tools or measures to be introduced. Co-operation in these bodies is facilitated by a central coordinators' office, publicly funded but in the form of an NGO constituted by organisations with a practical commitment to addressing domestic violence.*⁹⁸

The evaluation of the WiBIG project identified the following conditions for successful cooperation between agencies:

- independent coordinators able to mediate between agencies and projects
- inclusionary strategies that involve a broad spectrum of organisations and experts
- commitment to an active role by high-level political figures
- agreement on fundamental goals and concrete objectives
- mutual recognition of all participants as competent experts in their own fields
- delegation of representatives from their institution with a mandate for cooperation and some decision-making power.⁹⁹

5.3 Training for service professionals

The EWL acknowledges that the effectiveness of any response to victim/survivors of violence against women depends on the level of awareness of the professionals with whom they come into contact. These professionals need to understand the nature of violence against women, and know that it is a crime. They also need the capacity to respond appropriately and to provide ongoing support to the victim/survivors.¹⁰⁰ The Beijing Platform for Action calls on states to:

*Create, improve or develop as appropriate, and fund the training programmes for judicial, legal, medical, social, educational and police and immigrant [sic] personnel, in order to avoid the abuse of power leading to violence against women and sensitize such personnel to the nature of gender-based acts and threats of violence so that fair treatment of female victims can be assured.*¹⁰¹

Training for direct service providers and health/welfare referral agencies¹⁰² needs to be compulsory, ongoing and accredited. The EWL report notes that:

While training is important at the beginning of career development it is essential for ongoing training to be made available, especially to those professionals with developed expertise to enable them to extend their skills to respond to women victims of male violence.¹⁰³

In Australia, there are no national standards for training professionals who deal with violence against women, nor any national body to regulate such training. The UN Special Rapporteur has identified an urgent need to assess the effectiveness of current training programs for health professionals in Australia, and to implement new programs in consultation with relevant community organisations.¹⁰⁴

Box 18 Good practice principles: training for service professionals

The EU Good Practice Guide lists the characteristics of good practice in training for professionals providing services to victim/survivors of violence against women.

Specialised training should:

- contribute to multi-agency cooperation and be subject to ongoing evaluation, to determine which models and procedures are most effective and should be universally implemented
- involve the formulation and evaluation of training materials adapted to the nature of the work performed in each area
- include content on cultural diversity and racism, ideally delivered by professionals from services catering for victim/survivors from minority groups, especially women-specific services
- combine theory and practice, dividing the course into a series of sessions devoted to reflecting on the aims to be reached, the obstacles generally encountered and the innovations that may help overcome them. This establishes the relationship between theoretical principles and practical activities
- allow participants to plan a given innovation, apply it in everyday practice and reflect on the benefits and difficulties as the practice is implemented
- last for several months
- be accompanied by incentives to reward participants, such as acknowledgement and credits on the person's professional record, and financial reward.¹⁰⁵

Considering the good practice principles, an Australian NPoA should, first of all, assess the effectiveness of current training programs for professionals in the field. Where new programs are required, these should be implemented in consultation with relevant organisations. Training must begin in the initial educational setting (whether in the tertiary system or on-the-job), and then continue through professional development opportunities. National standards should guide this training, and ensure that it is compulsory, ongoing and accredited; a national body will be required to regulate training.

Box 19 International good practice: training for service professionals

The EWL has identified the training program for health professionals implemented by the Dublin-based service Women's Aid as good practice. This training model is based on research indicating that victim/survivors of violence against women often present first, and sometimes solely, at health care services. Given that the responses women receive when seeking help can have a major impact on their physical and emotional wellbeing, and that a positive response can empower women to take control of their own lives, the training program aims to assist health professionals to provide an appropriate response.

Women's Aid established their Training Unit in 1997, in response to the increasing demand from agencies and groups for specialist training. Their training programme for hospital staff consists of the following elements:

- a four-day training course for health service professionals, exploring good practice for the different disciplines in a hospital setting, and identifying the personal and institutional barriers that women might encounter there
- a training pack to help participants deliver training on the issue in their own hospital or clinic
- an exercise requiring participants to draw up a plan for new policies and procedures in their own home agency
- a requirement for participants to report on the outcomes of their agency in terms of numbers trained, policies agreed and procedures adopted.¹⁰⁶

5.4 Protection from further violence

Civil protection orders (also known as restraining or intervention orders) have the potential to provide women with safety and the confidence to leave a relationship. The UN Special Rapporteur has raised concerns about the inadequate enforcement of civil protection orders in Australia, and the use of such orders instead of, rather than as well as, a criminal response.¹⁰⁷ Civil protection orders are an essential part of the state's responsibility to protect survivors of violence, but should complement, not replace, a criminal response.¹⁰⁸

Box 20 Good practice principles: protection from further violence

The following principles should guide development of an NPoA:

- Protection orders should be applicable to a broad range of relationships, including carers in homes and in institutional care, domestic workers and kinship relationships.
- Violence should include psychological, emotional, physical and economic violence.
- Free legal assistance should be provided to all applicants for protection orders.
- Applicants should be linked to support services as a matter of course.
- Police should be required to assist applicants and make applications on their behalf where appropriate.
- Cross-border and cross-jurisdictional enforcement should be facilitated; for example, between family courts and local or magistrate's courts.

Box 21 International good practice: protection from further violence

The South African Domestic Violence Act 2000 has been recognised by the UN as good practice. The Act provides one of the broadest definitions of domestic violence, covering a wide range of behaviours, such as: physical, sexual, emotional, verbal and psychological abuses (including such behaviours as excessive possessiveness); economic abuse; intimidation; harassment; stalking; damage to property; and entry into the complainant's residence without consent.

The Act also covers a broad notion of relationships, including for example relationships where one party believes there is a romantic or intimate relationship and the other does not. This enables complainants to obtain redress for forms of violence not always covered in other jurisdictions.

When a protection order is granted under this act in South Africa, the court issues a suspended warrant for the arrest of the respondent that becomes enacted if the respondent breaches the order.¹⁰⁹

5.5 Women's economic independence

There are many reasons why women delay leaving, or decide not to leave, a violent relationship. Governments should remove all the barriers they can to women escaping violence, and take proactive measures to enable women to leave, such as promoting the economic independence of victim/survivors. Women experiencing violence are at an increased risk of unemployment and poverty. Welfare schemes need to recognise the immediate and long-term needs of women escaping violence. Programs to support women through, and into, employment should be included in an NPoA.

In Australia, the Centrelink Crisis Payments scheme should be reviewed to ensure that it adequately responds to the needs of women escaping violence, and that it does not force them to return to situations of violence due to economic need. All other income support programs should be similarly reviewed to ensure a woman has fully addressed her security and personal needs before she is required to seek employment.

The NPoA can also develop standards for employers to support women experiencing violence, so that they can retain employment and feel safe at work. Internationally, a small number of employers have started doing this.

Box 22 International good practice: supporting women's economic independence

The Republic of Ireland obtained funds from the European Social Fund to develop education, personal development and job training courses run through women's refuges.¹¹⁰

5.6 Compensation

A developing area of international human rights law concerns the right to a remedy and reparation for those who have suffered human rights violations. Compensation provides both important material and symbolic support to survivors of violence. To ensure this right is realised, particular care should be taken to assess whether or not women have difficulties accessing remedies. Women may not access compensation through lack of awareness that compensation is available, because of limited access to legal representation (particularly when a woman is left without financial support due to her escape from abuse) or because they do not want to go through another hearing.

General Recommendation 19 of the Committee on the Elimination of All Forms of Discrimination against Women, paragraph 24(i), states that:

Effective complaints procedures and remedies, including compensation, should be provided.

The Declaration on the Elimination of Violence against Women states in Article 4(d) that:

women who are subject to violence should be provided with access to just and effective remedies for the harm suffered.

The Council of Europe Committee of Ministers Recommendation Rec (2002)5 on the protection of women against violence, recommends that member states should:

36. Ensure that, in cases where the facts of violence have been established, victims receive appropriate compensation of any pecuniary, physical, psychological, moral and social damage suffered, corresponding to the degree of gravity, including legal costs incurred;

37. Envisage the establishment of financing systems in order to compensate victims.

5.6.1 Good practice principles in the provision of compensation

Compensation must be funded by the state (without reducing the individual liability of the perpetrator), accessible and commensurate with the long term loss caused by the violations.

To ensure compensation is accessible, steps must be taken to:

- provide free legal assistance to survivors applying for compensation
- extensively publicise compensation schemes to victim / survivors
- allow for compensation hearings to be part of existing legal proceedings (i.e. applications for protection orders).

To ensure compensation is adequate it must include:

- physical and mental harm, pain, suffering and emotional distress
- lost opportunities, including employment, education and social benefits
- material damage
- loss of earnings, including loss of earning potential
- harm to reputation or dignity
- costs required for legal or expert assistance, medical services, psychological or social services
- costs to secure safety including costs of installing security systems, new locks and alternative accommodation.

6. Prosecution

The Beijing Platform for Action requires governments to act across the full spectrum of issues relating to violence against women: from prevention to prosecution, compensation and rehabilitation of offenders.¹¹¹ Globally, prosecution and conviction rates for violent and sexual offences against women are amongst the lowest of all offences. The Australian Institute of Criminology estimates that less than 3 per cent of sexual assaults and related offences in Australia result in a conviction against the offender.¹¹² Barriers to prosecution occur at all stages, from initial reluctance to report (or a lack of awareness of rights) through to investigation, charging, trial and sentencing. Victim/survivors of violence may decide not to pursue a criminal justice response for fear of retribution from the perpetrator, fear of being ostracised by family and community, or through a sense of guilt, shame or a feeling that no-one will believe her. Victims/survivors also know that an investigation and trial will be emotionally painful, and will have a low chance of conviction.

International standards require that all aspects of prosecution – legislature, investigation, trial, punishment and compensation – be reviewed to ensure that justice is delivered to women victim/survivors. An NPoA should investigate why reporting, prosecution and conviction rates for violence against women in Australia are so low, and tackle the obstacles and shortcomings. Court procedures and rules of evidence should be reformed so that they do not discourage women from pursuing complaints. The plan should include model legislative standards across all jurisdictions, including criminal law, civil remedies and family law. While prosecution of most crimes against women is the responsibility of the states and territories, a national plan should harmonise the laws and procedures. Improving policing, legal processes, laws, evidence requirements and making support personnel available are among some of the ways in which an NPoA can work to improve the situation in Australia. An NPoA will be successful if it: instils confidence in women to seek a criminal justice response; addresses the problem of under-reporting; removes barriers to prosecution; and ensures that justice is done.

At the time of writing, consultation is being conducted by the Australian Government to determine whether Australia will become a signatory to the Optional Protocol to CEDAW. The protocol establishes a procedure under which women may complain to the Committee on the Elimination of All Forms of Discrimination against Women that their rights under the convention have been violated.¹¹³ In effect, signature of the protocol institutes the right to petition; without it, 'Australian women are left without either national or international recourse in areas where the Convention has not been fully implemented', such as identified gaps or exemptions in the operation of the *Sex Discrimination Act 1984*.¹¹⁴ One of the first actions in an NPoA should be the signing of the Optional Protocol, to ensure that the human rights of women in Australia are guaranteed protection at the international level, especially in absence of a national bill of rights and of Asia Pacific regional instruments and courts.

Amnesty International is mindful of the specificities of the Australian criminal justice response to violence against women, and the difficulties of comparing it to international responses. While it is relatively unproblematic to adapt an international public awareness-raising campaign to an Australian audience, for instance, the particularities of national legal systems make international comparison of prosecution processes, and the possibility of procedural adaptation, difficult. Accordingly, this section of the report contains less material from the international sphere, instead emphasising the identified gaps in the Australian context and how these might be addressed through a human rights-based approach. Amnesty International believes existing Australian good practice examples from the different states and territories are more useful, as are the recommendations of various state/territory bodies which have undertaken research on law reform in the area of violence against women over recent years.

This section provides recommendations relating to barriers at various stages of prosecution of both sexual assault and domestic violence. A multi-agency approach is required to overcome these barriers. An Australian initiative has been cited as good practice by the United Nations Division for Advancement of Women Expert Group. The ACT Family Violence Intervention Program (FVIP) is a multi-agency effort to maximise safety for victims of family violence and increase accountability of offenders. The project has:

- increased the amount of evidence collected by police
- reduced the amount of cases that are dropped by prosecutors
- increased support for victim/survivors through the court process
- established specialised court lists to hear family violence matters
- introduced offender responsibility programs as sentencing options
- enabled greater tracking of violence matters.

Evaluation of this project indicates that both the arrest and conviction rates of offenders have increased.¹¹⁵

6.1 Police practices

Police practices and attitudes can be either a support or a critical barrier to preventing and prosecuting violence, as well as to providing immediate protection for victim/survivors. A study on reported rapes in Victoria noted that victims' decisions on whether or not to proceed with an investigation are often 'affected by the nature of police involvement, suggesting that the way police respond to sexual assault is likely to be a critical determinant of case outcomes'.¹¹⁶

Trends in police investigations and interventions in relation to violence against women in Australia have been increasingly positive (for example, the introduction of specialised domestic violence units). However, there has not been a consistent level of improvement across the states and territories and, according to the UN Special Rapporteur on violence against women, police responses to violence against women in Australia remain inadequate.¹¹⁷

Problems identified by the UN and by Victorian-based agencies include: the lack of safe and confidential spaces for women to report violence¹¹⁸; police playing a 'gatekeeping' role in adopting attitudes which discourage women from proceeding¹¹⁹; lack of police understanding of diverse victim's needs¹²⁰; and inconsistent training procedures.¹²¹ In sexual assault cases, there are no consistent procedures governing the use of forensic testing across the states and territories, and police often appear to be reluctant to pursue a case of sexual assault where the survivor is the only source of evidence.

The UN Special Rapporteur has also raised concerns regarding the inadequate enforcement of civil protection orders in some cases, and the use of such orders instead of – rather than in addition to – a criminal response.¹²² Civil protection orders are an essential part of the state's responsibility to protect survivors of violence, but should complement, not replace, a criminal response.

In Australia, an NPoA must engage the most senior police from all states and territories as well as ministers responsible for police and justice. The federal government should consider introducing a National Police Code of Practice, to implement the best practice from the states and territories in investigations of violence against women and in the support and protection of victim/survivors. Specialised 'violence against women units', staffed by specially trained personnel and providing an integrated response to victim/survivors, should be established in police forces nationwide. The NPoA should also include: access to safe and confidential places to report violence to police; the appropriate use and enforcement of protection orders; and nationally consistent practices for forensic testing in sexual assault cases.

Box 23 Good practice principles: police practices

Police practices that support women through reporting and investigation, and protect them from further violence, constitute good practice. These include:

- a dual focus on supporting the victim/survivor of violence and bringing the perpetrator to justice
- specialised ‘violence against women units’, staffed by specially trained personnel, which enable women to feel supported and work to prevent re-victimisation
- safe and confidential environments for women to report violence
- consistent procedures in investigations of violence, and in protecting victim/survivors from re-victimisation
- police coordination with other services in a cooperative, multi-agency response
- compulsory, ongoing and accredited training on issues surrounding violence against women for both senior officers and new recruits.

The UN General Assembly Resolution 52/86 outlines good practice principles for police investigations of violence against women; it urges member states, within the framework of their national legal systems:

(a) To ensure that the applicable provisions of laws, codes and procedures related to violence against women are consistently enforced in such a way that all criminal acts of violence against women are recognized and responded to accordingly by the criminal justice system;

(b) To develop investigative techniques that do not degrade women subjected to violence and minimize intrusion, while maintaining standards for the collection of the best evidence;

(c) To ensure that police procedures, including decisions on the arrest, detention and terms of any form of release of the perpetrator, take into account the need for the safety of the victim and others related through family, socially or otherwise and that these procedures also prevent further acts of violence;

(d) To empower the police to respond promptly to incidents of violence against women;

(e) To ensure that the exercise of police powers is undertaken according to the rule of law and codes of conduct and that the police may be held accountable for any infringement thereof;

(f) To encourage women to join police forces, including at the operational level.¹²³

Box 24 International good practice: police practices

The Domestic Violence and Repeat Victimization Project (UK) is administered by the West Yorkshire Police.¹²⁴ The project was developed to help the police to respond to call-outs in cases of domestic violence. The strategy developed by the police makes it impossible for them to ignore this form of violence; the option of officers 'taking no further action' is eliminated. Under the project, police calculate the repetition of call-outs, and implement an escalating series of strategies. The dual focus of the model seeks to protect the victim and to demotivate the offender. Perpetrators are confronted with the unacceptable nature of the violence and victim/survivors are encouraged to report and to seek help from services.¹²⁵

The intervention strategy facilitates the gathering of evidence for subsequent criminal justice charges and provides for cooperation between police and criminal justice agencies, as well as the provision of support services to victims.

The Australian Institute of Criminology (AIC) has reviewed the project, and noted that it 'streamlined the recording of domestic violence incidents, placed equal intervention focus on the offender and victim, and improved inter-agency cooperation'.¹²⁶ The AIC stressed the resource-efficiency of the project, which worked with limited resources by redefining police duties and reallocating existing staff:

While the actual costs of the project were not calculated, the project only employed two additional domestic violence officers and an administrative clerk, suggesting that the program may be cost-effective given the investment of modest resources.¹²⁷

6.2 Preventing re-victimisation

Women victim/survivors need to be protected from any further victimisation arising from investigation and prosecution processes. The following are good practices that might be appropriate in the Australian context, helping to fill identified gaps in current practice.

6.2.1 Specialised court procedures

According to the UN Secretary General's study on violence against women, specialised court procedures and specialised laws (such as violence against women acts), reduce re-victimisation of women in the justice system, and can serve to remove obstacles to prosecutions. Procedural initiatives in some states have been positively evaluated, and could be systematised and adapted to other jurisdictions. These initiatives include the introduction of specialist sexual assault and domestic violence courts, and the provision of safe spaces at court, such as waiting rooms for the victim/complainant.

6.2.2 Support and advocacy

It is good practice for a victim to receive one-to-one support during legal proceedings. The support person should have knowledge of the complexity of violence against women, and should be allowed to be present during questioning or in court. This often requires legal regulation permitting the supporting person to be present (as in Denmark and Switzerland, for example).

6.2.3 Legal aid

There is no systematic provision of free legal aid to victim/survivors of violence against women in Australia. Advocates increasingly point to the need for victim/survivors to have legal representation through all proceedings. Legal Aid improves women's awareness of the options for taking action, provides clarification of the judicial process, and facilitates access to justice. The Council of Europe Plan of Action requires that 'all victims should have the right to legal representation (free of charge, as it is for the defendant)'. The

council states that a woman who has disclosed rape, sexual assault or domestic violence, and who has been asked to make a statement to the police or to testify in court, must have access to legal advice on what this may mean for her and the options available. The provision of free legal aid to victim/survivors of violence against women is now common practice in EU member states.

6.2.4 Rules of evidence

The rules of evidence can, unfortunately, lessen the likelihood of a prosecution and traumatize victim/survivors of violence. Too often, women feel that their life histories and credibility are on trial, rather than the defendant. Several Australian jurisdictions have reviewed definitions of sexual assault in recent years, and have incorporated a broader definition of sexual assault; however, this has not led to an increase in prosecution rates, and nor has it diminished the re-traumatisation of women through the court process.

One aspect of this re-traumatisation is the humiliation and ‘victim-blaming’ of women through the admission of sexual history as evidence in sexual assault cases. A number of jurisdictions have introduced guidelines that require judicial authority in order to interrogate witnesses about their sexual and personal history. However, a further step – a blanket ban on the admission of such evidence – is now considered good practice.¹²⁸

Another measure of good practice regarding the rules of evidence is that victim/survivors not be required to give evidence in the same space as the defendant.

Finally, victim/survivors are regularly required to provide their evidence numerous times. The Council of Europe Plan of Action recommends that ‘where preliminary hearings take place, they should as far as possible be replaced by paper disclosure to ensure that victims do not have to give evidence twice’.¹²⁹ An NPoA should advocate for changes to rules of evidence, to limit the times a victim/survivor must testify.

6.2.5 Role of prosecutors

Various organisations have examined the role of prosecutors, in an attempt to reduce re-victimisation of victim/survivors in the courtroom, increase prosecutions and establish standards of good practice internationally. Specialist prosecutors, trained in sexual assault and domestic violence, operating in specialist courts are increasingly regarded as good practice. The Council of Europe identifies the need for a code of practice for all law enforcement agencies, ‘identifying how to decrease the number of acquittals on technicalities and developing protocols for defence counsel which decrease the harassment and degradation of victim witnesses’.¹³⁰ These should be public documents with mechanisms attached for monitoring the implementation of the code. The Council of Europe Plan of Action recommends that prosecutors ‘be under a legal obligation to provide – and publish – reasons for non-prosecution of cases’.¹³¹ The code further recommends that plea bargains be recorded and justified, and that victim/survivors are consulted prior to any plea reduction.

Box 25 International good practice: preventing re-victimisation

The Statute of the International Criminal Court (ICC), known as the Rome Statute, is often cited as a model of good practice in supporting victim/survivors and preventing re-victimisation through the investigation and prosecution process. The ICC provides a specialised court procedure, which:

Addresses numerous structural issues, including the need to hire judges and prosecutors with special expertise in violence against women and children and the establishment of a victim and witness unit – that are critical if the court is to function as a progressive mechanism for gender justice.¹³²

The safety of victim/survivors and witnesses is a specific obligation of the senior administrator of the court. Article 43(6) of the Rome Statute requires the registrar to set up a victims and witnesses unit within the registry. This unit is to provide, in consultation with the Office of the Prosecutor, counselling and other appropriate assistance to: witnesses; victims who appear before the court; and others at risk on account of their testimony. The unit must also plan protective measures and security arrangements for them. The Rules of Procedure and Evidence of the Rome Statute¹³³ also detail the responsibilities of the registrar relating to victims and witnesses, which include taking gender-sensitive measures to facilitate the participation of victims of sexual violence at all stages of the proceedings.¹³⁴

The Rules of Procedure and Evidence of the Rome Statute set a standard of good practice in deeming evidence of ‘the prior or subsequent sexual conduct’ of a victim or witness inadmissible.¹³⁵ The ICC also ensures that victim/survivors are not required to give evidence in the same space as the defendant.

6.3 Role of legislation

The way in which legislation is structured or worded can have an important effect on prosecution outcomes for cases of violence against women. The UN General Assembly resolution on the Intensification of Efforts to Eliminate All Forms of Violence against Women calls on states to:

Review and, where appropriate, revise, amend or abolish all laws, regulations, policies, practices and customs that discriminate against women or have a discriminatory impact on women, and ensure that provisions of multiple legal systems, where they exist, comply with international human rights obligations, commitments and principles, including the principle of non-discrimination.¹³⁶

An NPoA should review all legislation relevant to violence against women, including family law, and should aim to strengthen and harmonise laws across the states and territories. In Australia, two major legislative areas have been identified as having a negative impact on victim/survivors’ right to justice. These are: the provocation defence to homicide, which is widely considered to operate in a gender-biased fashion, and has been used to lessen the sentences of men convicted of killing of their partners; and the definition of consent in sexual offences legislation.

6.3.1 Provocation defence to homicide

Article 2(f) of CEDAW requires governments:

To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

While most directly discriminatory laws addressing violence against women have been abolished in Australia, four states and the two territories retain the defence of provocation to homicide. The Model

Criminal Code Officer's Committee recommended in 1998 that the defence be removed from the Model Criminal Code, as 'the balance of opinion sees provocation in practice to operate in a gender-biased fashion'.¹³⁷

This position is supported in international law. UN General Assembly Resolution 52/86 urges member states to:

*review, evaluate and revise their criminal procedure, as appropriate, in order to ensure that [...] rules and principles of defence do not discriminate against women, and such defences as honour or provocation do not allow perpetrators of violence against women to escape all criminal responsibility.*¹³⁸

6.3.2 Definition of consent

The sexual assault cases least likely to proceed to trial or to gain a conviction are those where consent is contested. In recent years, law reform commissions and taskforces of attorneys-general in Australia have undertaken systematic reviews of sexual offences legislation, including definitions of consent. An NPoA should provide the forums and incentives for states and territories to work together to implement the recommendations of these reports in a nationally standardised fashion.

International criminal law can provide a useful model approach for definitions of sexual violence, such as rape, placing the emphasis not on the consent of the victim, but on whether the perpetrator used force, threats or coercion. For example, the Elements of Crimes of the Rome Statute of the International Criminal Court defines sexual violence as:

*an act of a sexual nature against one or more persons [...] by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, [...] or by taking advantage of a coercive environment or such person's or persons' incapacity to give consent.*¹³⁹

Such an approach, which locates responsibility in the actions of the alleged perpetrator, rather than the actions or reaction of the victim, was approved and developed in international legal terms by the European Court of Human Rights, in the case of *M.C. v Bulgaria*.¹⁴⁰ In this case, the domestic investigation and prosecution of two adult men who allegedly raped a 14-year-old girl was terminated by Bulgarian authorities on the grounds that there had been insufficient proof that she had been compelled to have sex. Because Bulgarian officials required physical evidence of resistance on the part of the victim in order to proceed, the respondent state of Bulgaria was held by the European Court to have failed to respect its positive obligations under Article 3 of the European Convention on Human Rights (the right not to suffer torture or ill-treatment) and Article 8 (the right to privacy and to a family life).¹⁴¹

Box 26 International good practice: definition of consent

The definition of consent used by the ICC is often cited as good practice, as it explicitly excludes the possibility of inferring consent from the victim's silence, lack of resistance, or other negatively defined behaviour. Rule 70 of the Rules of Procedure and Evidence of the Rome Statute of the International Criminal Court states:

In cases of sexual violence, the Court shall be guided by and, where appropriate, apply the following principles:

- (a) Consent cannot be inferred by reason of any words or conduct of a victim where force, threat of force, coercion or taking advantage of a coercive environment undermined the victim's ability to give voluntary and genuine consent;*
- (b) Consent cannot be inferred by reason of any words or conduct of a victim where the victim is incapable of giving genuine consent;*
- (c) Consent cannot be inferred by reason of the silence of, or lack of resistance by, a victim to the alleged sexual violence;*
- (d) Credibility, character or predisposition to sexual availability of a victim or witness cannot be inferred by reason of the sexual nature of the prior or subsequent conduct of a victim or witness.¹⁴²*

6.4 Training for police, prosecutors and the judiciary

Ill-informed comments by the judiciary, prosecutors and police can limit the delivery of justice and, when reported in the media, can further discourage victim/survivors from pursuing justice. Good practice standards dictate that training for all personnel involved in the investigation and prosecution of violence against women be regarded as mandatory. The UN Declaration on the Elimination of Violence against Women calls on states to:

Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women.¹⁴³

In Australia, although most police forces now require recruits to receive some training on sexual assault, officers who received training ten or twenty years ago are not always retrained (and may be in positions of leadership, which can undermine the training received by new recruits). An NPoA must include guidelines and training materials for police forces that encourage an interagency approach, as well as a dual focus on supporting the victim/survivors of violence and bringing the perpetrator to justice. There are currently no national standards for the training of police and legal professionals on violence against women, and nor is there a national body to regulate such training. Training for police, prosecutors and members of the judiciary, like that for service providers, needs to be compulsory, ongoing and accredited.

Box 27 Good practice principles: training for police, prosecutors and the judiciary

The Council of Europe recommends that training courses for police, prosecutors and the judiciary share core subject areas: the definition, forms and scale of violence against women; the impact of violence on the victims; the ways perpetrators deny and deflect responsibility; and the financial and social costs of violence. The courses should also include additional elements to address the particular role of each professional group. The council also recommends that a human rights component be included in training for all officials in law enforcement, prison and security services, in order to decrease the extent of abuse by public officials.

Good practice dictates that the training courses be developed in concert with appropriate women's organisations, and that the needs and experiences of particular groups of women be featured in the courses.

The training curricula should form part of vocational degrees and training courses for police, prosecutors and members of the judiciary. Following on from training, awareness of violence against women, and the link to equality issues, should become a formal rating factor in their staff performance appraisals. It is important to ensure that regular updating sessions on new research and policies are offered.

Box 28 International good practice: training for police and members of the judiciary

In Belgium, police, the judiciary and prosecutors receive compulsory and specialised training on physical and sexual violence.¹⁴⁴ The training involves the integrated delivery of theoretical and practical knowledge for judges and police. Members of the police receive training on assistance to victim/survivors of violence and attend a basic instruction course on violence. A station must put a member of its staff through the necessary training in specialised interview techniques for questioning victim/survivors to qualify for funding incentives. Since 1997, the standard training program for judges and prosecutors has included special training on physical and sexual violence. In 1998, this training was added to the basic program for trainee judges, so that all trainee judges in Belgium now undertake the course. Judges and trainee judges have been sensitised to the problem of physical and sexual violence through the courses and the publication *Help them break the silence*.

While not meeting the good practice principles of being compulsory or ongoing, various NGOs and governmental entities in the United States provide judicial training on violence against women. The National Judicial Education Program to Promote Equality for Women and Men in the Courts (NJEP) creates model curricula, and consults on gender bias in the courts, for use by judicial organisations, bar associations, law schools and legal and lay organisations across the country. Their model curriculum on rape trials, *The Judicial Response to Stranger and Non-Stranger Rape and Sexual Assault*, was published in 1994, and includes a self-directed video version and an adaptation for prosecutors. It has been a catalyst for the establishment of task forces to examine gender bias, such as in the use protection orders.¹⁴⁵

⁴⁹ There are some variations on the three Ps in the literature, for example, ensuring that services meet the needs of victim/survivors is sometimes worded as 'protection' rather than 'provision'. We have used the broader concept of 'provision' in this report, which is conceived as entailing not only actions which serve to protect the victim/survivor from further violence (such as the funding of shelters), but also the provision of services which do more than protect, such as those directed at the victim/survivor's long-term wellbeing. Similarly, in the literature of NGOs and international organisations, 'prosecution' is sometimes worded as 'punishment'. The former is preferred here as entailing punishment in its legally sanctioned form.

⁵⁰ *Convention on the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, GA res. 34/180 (1979) (entered into force 3 September 1981), art 5(a). Similar requirements exist in the Beijing Platform for Action.

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- ⁵¹ World Health Organisation (2002) *World Report on Violence and Health*, World Health Organization, Geneva, p. 3.
- ⁵² Ertürk, Y (2006) *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women – The Due Diligence Standard as a Tool for the Elimination of Violence against Women*, Report of the Special Rapporteur on violence against women, its causes and consequences, E/CN.4/2006/61, para 14.
- ⁵³ United Nations General Assembly (2007) *Intensification of Efforts to Eliminate All Forms of Violence against Women*, A/RES/61/145, art 8(f).
- ⁵⁴ VicHealth (2007) *Preventing Violence before it Occurs: A Framework and Background Paper to Guide the Primary Prevention of Violence against Women in Victoria*, VicHealth, Melbourne. p. 5.
- ⁵⁵ *Beijing Declaration and Platform for Action: Report of the Fourth World Conference on Women*, UN Doc A/CONF177/20 (1995) and A/CONF177/20/Add 1 (1995), Section D, para 124(d).
- ⁵⁶ United Nations Division for the Advancement of Women (2005) *Good Practices in Combating and Eliminating Violence against Women*, Report of the Expert Group Meeting, Vienna, Austria, 17-20 May 2005, p. 31.
- ⁵⁷ VicHealth (2004) *The Health Costs of Violence: Measuring the Burden of Disease Caused by Intimate Partner Violence*, VicHealth, Melbourne.
- ⁵⁸ VicHealth (2007) *Preventing Violence before it Occurs: A Framework and Background Paper to Guide the Primary Prevention of Violence against Women in Victoria*, VicHealth, Melbourne.
- ⁵⁹ *Beijing Declaration and Platform for Action: Report of the Fourth World Conference on Women*, UN Doc A/CONF177/20 (1995) and A/CONF177/20/Add 1 (1995), Section D, para 119.
- ⁶⁰ See for example, Keel, M (2005) 'Prevention of Sexual Assault: Working with Adolescents within the Education System', *ACSSA Aware*, No 8; Urbis Keys Young (2004) *National Framework for Sexual Assault Prevention*, Commonwealth of Australia, Canberra; National Crime Prevention (1999) *Pathways to Prevention: Developmental and Early Intervention Approaches to Crime in Australia*, National Crime Prevention, Attorney General's Department, Canberra; Anderson, VN, Simpson-Taylor, D, and Herrmann, DJ (2004) 'Gender, Age, and Rape-Supportive Rules (1)', *Sex Roles: A Journal of Research*, 50 (1-2): 77-91; Smith, A, Agius, P, Dyson, S, Mitchell, A and Pitts, M (2003) *Secondary Students and Sexual Health 2002: Report of the findings from the 3rd National Survey of Australian Secondary Students, HIV/AIDS and Sexual Health*, La Trobe University, Melbourne; and Daws, L, Brannock, J, Brooker, P, Patton, W, Smeal, G and Warren, S (1995) *Young People's Perceptions and Attitudes to Sexual Violence*, Report to the National Youth Affairs Research Scheme, National Clearinghouse for Youth Studies, Hobart.
- ⁶¹ Urbis Keys Young (2004) *National Framework for Sexual Assault Prevention*, Commonwealth of Australia, Canberra, p. 15.
- ⁶² *ibid.*
- ⁶³ *ibid.*
- ⁶⁴ Institute of Women, Spanish Ministry of Labour and Social Affairs, with Díaz Aguado, M J and Martínez Arias, R (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid, p. 49.
- ⁶⁵ Drawn from Urbis Keys Young (2004) *National Framework for Sexual Assault Prevention*, Commonwealth of Australia, Canberra; Institute of Women, Spanish Ministry of Labour and Social Affairs, with Díaz Aguado, M J and Martínez Arias, R (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid, and; Council of Europe, Group of Specialists for Combating Violence against Women (1997) *Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women EG-S-VL (97) 1*.
- ⁶⁶ In Australia, programs meeting good practice standards have been collected on the good practice databases of the Domestic and Family Violence Clearinghouse and the Australian Centre for the Study of Sexual Assault, which are accessible online. The *Partnerships against Domestic Violence* report, *Domestic Violence: Working with Men*, also contains some case studies of educational initiatives aimed at male adolescents in Australia: Partnerships against Domestic Violence (2001) *Domestic Violence: Working with Men: Phase I Meta-Evaluation Report*.
- ⁶⁷ Institute of Women, Spanish Ministry of Labour and Social Affairs, with Díaz Aguado, M J and Martínez Arias, R (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid, p. 45.

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- ⁶⁸ Institute of Women, Spanish Ministry of Labour and Social Affairs, with Díaz Aguado, M J and Martínez Arias, R (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid, p. 53.
- ⁶⁹ German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2007) *Second Action Plan of the Federal Government to Combat Violence against Women*, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Berlin, p. 17.
- ⁷⁰ Contact Dorothea Hecht, Coordinator, Berliner Interventionszentrale bei häuslicher Gewalt (BIG) project, Sarrazinstr. 11-15, 12159 Berlin (Friedenau). Email: hecht@big-interventionszentrale.de
- ⁷¹ Institute of Women, Spanish Ministry of Labour and Social Affairs, with Díaz Aguado, M J and Martínez Arias, R (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid, p. 20.
- ⁷² Institute of Women, Spanish Ministry of Labour and Social Affairs, with Díaz Aguado, M J and Martínez Arias, R (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid.
- ⁷³ *ibid*, p. 19.
- ⁷⁴ see, for example: *Beijing Declaration and Platform for Action: Report of the Fourth World Conference on Women*, UN Doc A/CONF177/20 (1995) and A/CONF177/20/Add 1 (1995), Section D, para 125(g), and Institute of Women, Spanish Ministry of Labour and Social Affairs, with María José Díaz Aguado and Rosario Martínez Arias (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid.
- ⁷⁵ United Nations General Assembly (2006) *In-Depth Study on All Forms of Violence against Women: Report of the Secretary General*, A/61/122/Add. 1.
- ⁷⁶ United Nations Division for the Advancement of Women (2005) *Good Practices in Combating and Eliminating Violence against Women*, Report of the Expert Group Meeting, Vienna, Austria, 17-20 May 2005.
- ⁷⁷ Council of Europe, Group of Specialists for Combating Violence against Women (2000) *Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women EG-S-VL (97) 1.*, p. 45.
- ⁷⁸ From Zero Tolerance Trust website: <http://www.myspace.com/zerotolerancetrust>, accessed 4th February 2008.
- ⁷⁹ *Declaration on the Elimination of Violence against Women*, GA res. 48/104 (1993), para 4g.
- ⁸⁰ See the report. German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2004) *Working Together to Combat Domestic Violence: Cooperation, intervention, research. Findings of the evaluation research assessing intervention projects against domestic violence (German acronym: WiBIG)*, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Berlin.
- ⁸¹ The average daily turn-away rate for agencies targeted at women escaping domestic violence was reported at 48% by the Australian Institute of Health and Welfare (2004) *Demand for Supported Accommodation Assistance Program (SAAP) Assistance by Homeless People 2002–03 Australia*, SAAP NDCA Report Series 8, Australian Institute of Health and Welfare, Canberra, p. 60. Available at: <http://www.aihw.gov.au/publications/hou/dsaapahp02-03/dsaapahp02-03.pdf>
- ⁸² reported by safe-house workers at the *Home Truths: Stop Sexual Assault and Domestic Violence* Conference, Sept 2004. See Keel, M, Fergus, L and Heenan, M (2004) *Home Truths: A Conference in Review*, Issues Paper 3, Australian Centre for the Study of Sexual Assault, Melbourne, pp. 27-8.
- ⁸³ National Evaluation of the Supported Accommodation Assistance Program (SAAP IV), [www.facs.gov.au/internet/facsinternet.nsf/via/saap_iv/\\$File/SAAP_evaluation.pdf](http://www.facs.gov.au/internet/facsinternet.nsf/via/saap_iv/$File/SAAP_evaluation.pdf)
- ⁸⁴ National Youth Commission, Australia's Homeless Youth: a report of the National Youth Commission Inquiry into Youth Homelessness, 2008. www.nyc.net.au/files/Australias_Homeless_Youth.pdf
- ⁸⁵ Australian Institute of Health and Welfare, Homeless children in SAAP 2004–05, www.aihw.gov.au/publications/aus/bulletin48/bulletin48.pdf.
- ⁸⁶ Council of Europe, Group of Specialists for Combating Violence against Women (2000) *Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women EG-S-VL (97) 1.*, p. 73.

⁸⁷ Cited in Institute of Women, Spanish Ministry of Labour and Social Affairs, with Díaz Aguado, M J and Martínez Arias, R (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid, pp. 73-4.

⁸⁸ Institute of Women, Spanish Ministry of Labour and Social Affairs, with Díaz Aguado, M J and Martínez Arias, R (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid.

⁸⁹ *ibid.*

⁹⁰ United Nations Committee on Economic, Social and Cultural Rights (2000) *General Comment 14: The Right to the Highest Attainable Standard of Health*, E/C.12/2000.4.

⁹¹ Keel, M, Fergus, L and Heenan, M (2004) *Home Truths: A Conference in Review*, Issues Paper 3, Australian Centre for the Study of Sexual Assault, Melbourne, p. 16.

⁹² In the case of women working at Ali Curung near Tenant Creek, their 'wage' was reportedly CPED money (work for the dole), with the service resourced on a yearly budget of \$12,000. See Keel, M, Fergus, L and Heenan, M (2004) *Home Truths: A Conference in Review*, Issues Paper 3, Australian Centre for the Study of Sexual Assault, Melbourne.

⁹³ Immigrant Women's Domestic Violence Service (2006) *The Right to be Safe from Domestic Violence: Immigrant and refugee Women in Rural Victoria*, Immigrant Women's Domestic Violence Service, Melbourne.

⁹⁴ Victorian Women with Disabilities Network (2007), *A Framework for Influencing Change: Responding to Violence against Women with Disabilities 2007-2009*.

⁹⁵ Council of Europe, *Recommendation Rec(2002)5 of the Committee of Ministers to Member States on the Protection of Women against Violence*, adopted by the Committee of Ministers in April 2002, appendix, para 23.

⁹⁶ European Women's Lobby (2001) *Towards a Common European Framework to Monitor Progress in Combating Violence against Women: Proposals for a Policy Framework and Indicators in the Areas of Budgets, Legislation, Justice, Service Provision, Training of Professionals, Civil Society, Data Collection and Prevention, and Case Studies of Models of Good Practice*, European Women's Lobby Policy Action Centre on Violence against Women.

⁹⁷ Nominated as good practice by the European Women's Lobby in their 2001 report, *Towards a Common European Framework to Monitor Progress in Combating Violence against Women: Proposals for a Policy Framework and Indicators in the Areas of Budgets, Legislation, Justice, Service Provision, Training of Professionals, Civil Society, Data Collection and Prevention, and Case Studies of Models of Good Practice*, European Women's Lobby Policy Action Centre on Violence against Women.

⁹⁸ European Women's Lobby (2001) *Towards a Common European Framework to Monitor Progress in Combating Violence against Women: Proposals for a Policy Framework and Indicators in the Areas of Budgets, Legislation, Justice, Service Provision, Training of Professionals, Civil Society, Data Collection and Prevention, and Case Studies of Models of Good Practice*, European Women's Lobby Policy Action Centre on Violence against Women, p. 22.

⁹⁹ German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2004) *Working Together to Combat Domestic Violence: Cooperation, intervention, research. Findings of the evaluation research assessing intervention projects against domestic violence (German acronym: WiBIG)*, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Berlin. The evaluation is available in English at: <http://www.wibig.uni-osnabrueck.de/wibig1.htm>

¹⁰⁰ European Women's Lobby (2001) *Towards a Common European Framework to Monitor Progress in Combating Violence against Women: Proposals for a Policy Framework and Indicators in the Areas of Budgets, Legislation, Justice, Service Provision, Training of Professionals, Civil Society, Data Collection and Prevention, and Case Studies of Models of Good Practice*, European Women's Lobby Policy Action Centre on Violence against Women.

¹⁰¹ *Beijing Declaration and Platform for Action: Report of the Fourth World Conference on Women*, UN Doc A/CONF177/20 (1995) and A/CONF177/20/Add 1 (1995), Section D, para 124(n).

¹⁰² These include: community health workers; government and non-government agencies; medical practitioners; counsellors, mediators and therapists; teachers; legal practitioners; clergy; and police.

¹⁰³ European Women's Lobby (2001) *Towards a Common European Framework to Monitor Progress in Combating Violence against Women: Proposals for a Policy Framework and Indicators in the Areas of Budgets, Legislation, Justice, Service Provision, Training of Professionals, Civil Society, Data Collection and Prevention, and Case Studies of Models of Good Practice*, European Women's Lobby Policy Action Centre on Violence against Women, pp. 10-11.

¹⁰⁴ Coomaraswamy, R (2002) *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, Addendum 1. International, Regional and National Developments in the Area of Violence against Women 1994-2003* Report of the Special Rapporteur on violence against women, its causes and consequences, submitted in accordance with Commission on Human Rights resolution 2002/52.

¹⁰⁵ Summarised from Institute of Women, Spanish Ministry of Labour and Social Affairs, with Díaz Aguado, M J and Martínez Arias, R (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid, pp. 62-4.

¹⁰⁶ European Women's Lobby (2001) *Towards a Common European Framework to Monitor Progress in Combating Violence against Women: Proposals for a Policy Framework and Indicators in the Areas of Budgets, Legislation, Justice, Service Provision, Training of Professionals, Civil Society, Data Collection and Prevention, and Case Studies of Models of Good Practice*, European Women's Lobby Policy Action Centre on Violence against Women, p. 20. Contact: Women's Aid Training Unit, 8 Gardner Place, Ireland – Dublin 1. E-mail: tu@womensaid.ie

¹⁰⁷ Coomaraswamy, R (2002) *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, Addendum 1. International, Regional and National Developments in the Area of Violence against Women 1994-2003* Report of the Special Rapporteur on violence against women, its causes and consequences, submitted in accordance with Commission on Human Rights resolution 2002/52.

¹⁰⁸ Coomaraswamy, R (2003) *Report to the Commission on Human Rights of the Special Rapporteur on violence against women, its causes and consequences*, UN Doc E/CN.4/2003/75, 6 January 2003, paras 29–30.

¹⁰⁹ Vetten, Lisa, *Addressing domestic violence in South Africa: Reflections on strategy and practice*, expert paper prepared for United Nations Division for the Advancement of Women, *Violence against Women: Good Practices in combating and eliminating violence against women* expert group meeting, Vienna Australia, May 2005. <http://www.un.org/womenwatch/daw/egm/vaw-gp-2005/docs/experts/vetten.vaw.pdf>

¹¹⁰ Council of Europe, Group of Specialists for Combating Violence against Women (2000) Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women EG-S-VL (97) 1. Available at: [http://www.coe.int/T/E/Human_Rights/Equality/PDF_EG-S-VL\(97\)1_E.pdf](http://www.coe.int/T/E/Human_Rights/Equality/PDF_EG-S-VL(97)1_E.pdf) pg 75

¹¹¹ United Nations Development Fund for Women (UNIFEM) (2003) *Not a Minute More: Ending Violence against Women*, United Nations Development Fund for Women, New York.

¹¹² Australian Institute of Criminology (2007) *Guilty Outcomes in Reported Sexual Assault and Related Offence Incidents*, Crime Facts Info No. 162, Australian Institute of Criminology, Canberra.

¹¹³ Evatt, E (2002) 'Women and Human Rights,' *Monash University Law Review* 28, 1, p. 13.

¹¹⁴ *ibid.*

¹¹⁵ United Nations Division for the Advancement of Women (2005) *Good Practices in Combating and Eliminating Violence against Women*, Report of the Expert Group Meeting, Vienna, Austria, 17-20 May 2005, p. 27. See also Urbis Keys Young (2001) *Evaluation of the Learning to Relate without Violence and Abuse Program: Final Report*, for Department of Justice and Community Safety, Canberra.

¹¹⁶ Heenan, M and Murray, S (2006) *Study of Reported Rapes in Victoria 2000-2003: Summary Research Report*, Statewide Steering Committee to Reduce sexual Assault, Office of Women's Policy, Department of Victorian Communities, Melbourne, p. 3, citing Lievore, D (2003) *Non-reporting and Hidden Recording of Sexual Assault: An International Literature Review*, Commonwealth of Australia, Canberra, and; Victorian Law Reform Commission (2003) *Sexual Offences: Interim Report*, Victorian Law Reform Commission, Melbourne.

¹¹⁷ Coomaraswamy, R (2002) *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, Addendum 1. International, Regional and National Developments in the Area of Violence against Women 1994-2003* Report of the Special Rapporteur on violence against women, its causes and consequences, submitted in accordance with Commission on Human Rights resolution 2002/52.

¹¹⁸ *ibid.*

¹¹⁹ Heenan, M and Murray, S (2006) *Study of Reported Rapes in Victoria 2000-2003: Summary Research Report*, Statewide Steering Committee to Reduce sexual Assault, Office of Women's Policy, Department of Victorian Communities, Melbourne.

¹²⁰ *ibid.*

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- ¹²¹ Victorian Law Reform Commission (2004) *Sexual Offences: Final Report*, Victorian Law Reform Commission, Melbourne.
- ¹²² Coomaraswamy, R (2002) *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, Addendum 1. International, Regional and National Developments in the Area of Violence against Women 1994-2003* Report of the Special Rapporteur on violence against women, its causes and consequences, submitted in accordance with Commission on Human Rights resolution 2002/52.
- ¹²³ United Nations General Assembly (1998) *Crime Prevention and Criminal Justice Measures to Eliminate Violence against Women: Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice*, A/RES/52/86, art 8.
- ¹²⁴ identified as good practice in European Women's Lobby (2001) *Towards a Common European Framework to Monitor Progress in Combating Violence against Women: Proposals for a Policy Framework and Indicators in the Areas of Budgets, Legislation, Justice, Service Provision, Training of Professionals, Civil Society, Data Collection and Prevention, and Case Studies of Models of Good Practice*, European Women's Lobby Policy Action Centre on Violence against Women.
- ¹²⁵ Hanmer, J, Griffiths, S and Jerwood, D (1999) *Arresting Evidence: Domestic Violence and Repeat Victimization*, Police Research Series Paper 104, Policing and Reducing Crime Unit, Home Office, London.
- ¹²⁶ Gant, F and Grabosky, P (2000) *The Promise of Crime Prevention*, 2nd ed, Research and Public Policy Series No. 31, Australian Institute of Criminology, Canberra, p. 53.
- ¹²⁷ *ibid.*
- ¹²⁸ Where restrictions and guidelines on the admission of sexual history evidence do exist, they are subject to the discretionary power of judges to interpret and apply them. The literature shows that definitional problems, inconsistent approaches to interpretation and outright breaches of regulations have meant that there has been no observable reduction in the admission of sexual history evidence since the application of such restrictions. See Heenan, M. (2003), 'Reconstituting the 'relevance' of women's sexual histories in rape trials,' *Women against Violence: An Australian Feminist Journal*, no. 13, pp. 4-17.
- ¹²⁹ Council of Europe, Group of Specialists for Combating Violence against Women (2000) *Final Report of Activities of the EG-S-VL including a Plan of Action for Combating Violence against Women EG-S-VL (97) 1*, p. 70.
- ¹³⁰ *ibid.*
- ¹³¹ *ibid.*
- ¹³² Coomaraswamy, R (2002) *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, Addendum 1. International, Regional and National Developments in the Area of Violence against Women 1994-2003* Report of the Special Rapporteur on violence against women, its causes and consequences, submitted in accordance with Commission on Human Rights resolution 2002/52, p. 9, para 8.
- ¹³³ *Rules of Procedure and Evidence* (instrument for the application of the Rome Statute of the International Criminal Court), ICC-ASP/1/3, adopted by the Assembly of States Parties 3-10 September 2002, New York, Rule 70: Principles of evidence in cases of sexual violence.
- ¹³⁴ *ibid*, Rule 16, para. 1(d).
- ¹³⁵ *ibid*, Rule 71: Evidence of other sexual conduct.
- ¹³⁶ United Nations General Assembly (2007) *Intensification of Efforts to Eliminate All Forms of Violence against Women*, A/RES/61/145, Article 8(c).
- ¹³⁷ Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General (1998) *Model Criminal Code, Chapter 5: Fatal Offences against the Person*, Criminal Law Officers Committee, Canberra, pp. 105-7 (referred to as the 'MCCOC Discussion Paper').
- ¹³⁸ United Nations General Assembly (1998) *Crime Prevention and Criminal Justice Measures to Eliminate Violence against Women: Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice*, A/RES/52/86, art 7(d).
- ¹³⁹ *Elements of Crimes* (for articles 6, 7 and 8 of the Rome Statute of the International Criminal Court), ICC-ASP/1/3(part II-B), entered into force 9 September 2002, art 7(1)(g)– 6. A footnote to this element states that: 'It is understood that a person may be incapable of giving genuine consent if affected by natural, induced, or age-related incapacity'.

¹⁴⁰ *M.C. v Bulgaria*, application no. 39272/98, judgment, 4 December 2003.

¹⁴¹ *ibid*, para 166.

¹⁴² *Rules of Procedure and Evidence* (instrument for the application of the Rome Statute of the International Criminal Court), ICC-ASP/1/3 (part II-A), entered into force 9 September 2002, New York, Rule 70: Principles of evidence in cases of sexual violence.

¹⁴³ *Declaration on the Elimination of Violence against Women*, GA res. 48/104 (1993), art 4(i).

¹⁴⁴ Cited as good practice in Institute of Women, Spanish Ministry of Labour and Social Affairs, with Díaz Aguado, M J and Martínez Arias, R (2002) *Good Practice Guide to Mitigate the Effects of and Eradicate Violence against Women*, Ministry of Labour and Social Affairs, Madrid.

¹⁴⁵ Coomaraswamy, R (2002) *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, Addendum 1. International, Regional and National Developments in the Area of Violence against Women 1994-2003* Report of the Special Rapporteur on violence against women, its causes and consequences, submitted in accordance with Commission on Human Rights resolution 2002/52, p. 396, para 2165.

Conclusion

Violence against women continues when it is deemed normal or unavoidable, when excuses are found for perpetrators and when inequality and sexism are entrenched. In common with other human rights abuses, such as slavery or torture, violence against women has a long history that has served to entrench it culturally. Historically, violence against women has been (and in some cases still is) viewed as somehow excusable. Like slavery or torture, violence against women is a human rights abuse against the physical and psychological integrity of the individual. Like slavery or torture, violence against women aims to instil fear and obedience; has a long-term (potentially cross-generational) effect on identity and wellbeing; and is perpetrated against a group of people simply because of who they are.

It is time that our response to violence against women reflected the seriousness of the abuse. We do not speak of ‘reducing’ slavery. We do not speak of ‘responding to’ torture. We speak of ending it, eliminating it, refusing to tolerate it in any form. We need to see the same ethical commitment to ending violence against women. Like slavery or torture, there is nothing inevitable about violence against women. We can end it, and this – nothing less – must be our aim.

It is time to move beyond the piecemeal approach that has characterised government action on violence against women over the last few decades. Violence against women is widespread, systematic and culturally entrenched; it is not possible to end this violence with disparate initiatives, short-term funding and one-off projects. The evidence tells us that to persist in such a vein is to allow the abuse to continue. Strong national leadership is required to drive efforts to eliminate violence against women. Legislative bodies and statutory agencies, together with the volunteer sector, all have a role to play. A single, national strategy will help to coordinate these roles, to inform and improve partnerships among various departments and agencies.

The development of an NPoA will require time, consultation and resources. The plan represents a long journey. While some of the plan’s initiatives could have an immediate effect on improving the response to victim/survivors or the efficacy of the criminal justice system, it will take years before educational and other prevention initiatives come to fruition, and help create a society where violence against women is a thing of the past. But we cannot afford to delay taking the first step.

The formation and implementation of an NPoA is an opportunity for Australia to lead the way internationally in efforts to end violence against women. Given Australia’s long commitment to human rights, strong political and public support for the issue, and our advanced economy, we are well-placed to adopt the best of international strategies and practices across the board. We can set the standard on national plans, and ensure that all women in Australia enjoy their right to live free of violence and the threat of violence.

Annex A – International good practice index

Reference	Subject area	Jurisdiction
Box 1 (p.13)	NPoA	International
Box 2 (p. 15)	Coordinating bodies	Denmark, Norway, the Netherlands
Box 3 (p. 16)	Legislation	United States
Box 4 (p. 17)	Diversity and inclusion	Germany, Canada, New Zealand
Box 5 (p. 19)	Action plans	Germany
Box 6 (p. 20)	Targets and timeframes	Various
Box 7 (p. 21)	Monitoring and accountability	Norway
Box 8 (p. 22)	Leadership forums	European Union
Box 11 (p. 34)	Education	Germany
Box 13 (p. 36)	Public awareness	United Kingdom (Scotland)
Box 15 (p. 39)	Places of safety	Denmark, Austria
Box 17 (p. 43)	Integrated service provision	Germany
Box 19 (p. 45)	Training for service professionals	Ireland
Box 21 (p. 46)	Protection from further violence	South Africa
Box 22 (p. 46)	Supporting economic independence	Republic of Ireland
Box 23 (p. 50)	Police practices	UN General Assembly
Box 24 (p. 51)	Police practices	United Kingdom (England)
Box 25 (p. 53)	Preventing re-victimisation	International Criminal Court
Box 26 (p. 55)	Definition of consent	International Criminal Court
Box 28 (p. 56)	Training for police and members of the judiciary	Belgium, United States

Annex B – Methodology

This report aims to provide direction for the development of a strong and effective NPoA on violence against women in Australia. It distils the principles of good practice in both the process of formulation and in the broad content areas of NPoAs, based on international human rights–based research. Where appropriate, it delivers instructive examples of NPoA structures or programs from other countries which meet such good practice.

Given that NPoAs are, by definition, broadly envisaged to entail every policy area relevant to violence against women, time and resource restrictions make it impossible to carry out primary evaluative research of international initiatives across all the content areas of such plans. This would mean reviewing countless programs, practices and reforms in the areas of legislation, education, court procedures, police practice, media campaigns, health and housing services, to name but some of the policy areas engaged by an NPoA. This report, therefore, takes a broad focus, analysing the research that has already been conducted in these areas internationally, in order to draw out common principles and themes.

The research began with an examination of international treaty law related to violence against women, such as CEDAW's General Recommendation 19¹⁴⁶, the Declaration on the Elimination of Violence against Women¹⁴⁷ and the Beijing Declaration and Platform for Action¹⁴⁸, along with regional instruments such as the Council of Europe's Recommendation Rec(2002)5 on the Protection of Women against Violence¹⁴⁹ and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.¹⁵⁰ The aim of this examination was to determine the extent of international legal obligations regarding due diligence on violence against women generally, and on NPoAs specifically.

Next, a literature review was undertaken of major publications taking a human rights–based and/or public policy approach to violence against women, particularly at the international level. Of most use were the publications of international organisations already mentioned, such as the United Nations (UN) and its divisions working on women (UNIFEM and DAW), the Council of Europe, the World Health Organisation, the Inter-American Commission on Human Rights, and the European Union. The aim of this literature review was to distil principles and examples of good practice in public policymaking on violence against women. The framework for analysis was the international legal obligation of states to exercise due diligence in the prevention and prosecution of violence against women, as well as the provision of services to victim/survivors. The principles and practices highlighted in this report are, therefore, those that indicate a 'duly diligent' state response in these different areas.

Given the 'once-removed' nature of the current research in its reliance on secondary sources, precise definitions of good practice were, by necessity, determined by those adopted in the source documents. Even then, it was often noted that there are no uncontested 'rules' for identifying good practice. Many documents identify the importance of national and cultural context as impacting on which approach works best (for this reason the term 'best practice' is typically eschewed in favour of the more qualified terms of 'good' or 'promising' practice). Similarly, the UN Division for the Advancement of Women (DAW) notes that:

The last decade has taught us the danger of [claims to 'best practice'] especially with respect to groups who are already disadvantaged in asserting their rights – for example, women with disabilities and those with uncertain legal status. [...] Likewise, the examples provided are not exhaustive, universally applicable, or suggestive of unchanging contexts. [...] As we learn more and as women's expectations change, some may be eclipsed by innovations and new insights that offer even more promise in efforts to prevent violence against women.¹⁵¹

Following these qualifications, the DAW report nevertheless lists ‘transfers of practices, adaptation of interventions to local particularities and available resources, establishment of and adherence to standards, principles underpinning interventions, and achievement of intended outcomes’ as examples of good practice.¹⁵² The UN Special Rapporteur on violence against women, its causes and consequences, lists interventions as good practice where they led ‘to actual change, contributed to a policy environment more conducive to gender equality and/or [broke] new ground’.¹⁵³

The UN Secretary General’s study on violence against women, rather than attempting to define the ‘rules’ of good practice, gives the following broad illustration of its principles:

*There are generic aspects of good or promising practices that can be extracted from a variety of experiences around the world. Common principles of such practices include: clear policies and laws that make violence illegal; strong enforcement mechanisms; effective and well-trained personnel; the involvement of multiple sectors; and close collaboration with local women’s groups, civil society organizations, academics and professionals. It is critical to involve women fully and to use their experiences of violence – including the complexities that arise from multiple discrimination – as the starting point for developing policies and programmes. The most promising practices in all areas involve a clear demonstration of political commitment to eliminating violence against women, as evidenced by statements by high-level government officials, backed by action and the commitment of resources by the State.*¹⁵⁴

In summary, good practice on violence against women is what we know, or assume on the basis of available evidence, to be practice which works towards the substantive realisation of women’s right to live free of violence. That is, actions, legislation or initiatives which work to end violence against women, or to respond to it effectively. While still very much a work in progress, a picture of international good practice has begun to emerge in policymaking on violence against women, including in the area of NPOAs, which is based firmly in international human rights obligations. If due diligence is the conceptual link between the ideal and the real, then good practice is the means – the process by which the concept is applied.

The research behind this report aimed to distil principles and provide examples of such international good practice, rather than to identify where Australian policy might fail to meet such standards. However, given that the specifics of national legislative, criminal justice and service systems will affect what is good practice in any particular national context, it would be artificial to ignore current Australian policy on violence against women. So, while this report does not aim to provide a comprehensive overview of the strengths and weaknesses of such policy, it does, where appropriate, identify certain gaps in order to determine the good practice principles and/or examples that would be most applicable.

The identification of such gaps was carried out in consultation with various Australian organisations working on violence against women. Amnesty International organised a series of forums with such groups in different states and territories in November 2007, and distributed widely a questionnaire to organisations working on violence against women, aiming to identify gaps in various areas of action. Existing Australian research was also reviewed, including that on national or state/territory good practice in preventing and responding to violence against women. The Partnerships against Domestic Violence (PADV) initiative and the good practice databases of the Australian Domestic and Family Violence Clearinghouse (ADFVCH) and the Australian Centre for the Study of Sexual Assault (ACSSA) were rich sources of information, and would also be invaluable to the development of an Australian NPOA. Finally, it should be noted that this report does not aim to replicate the above research, but rather to complement it by adding an international perspective, and by applying a human rights framework, in order to identify the gaps in the Australian context that a well-structured NPOA could fill.

Finally, while an NPoA must address all forms of violence against women, most of the examples used in this report (and the policy gaps identified) concern the two most common forms of violence against women: domestic violence and sexual assault. Amnesty International recognises that this restriction omits crucial violations, including: trafficking of women; gender-based persecution as grounds for asylum; sexual harassment; workplace violence and the role of employers; violence against women in prostitution, in prisons, detention centres and other institutions. All of these areas should be included in an NPoA. Amnesty International hopes to build on this paper and address these forms in future work.

Annex C – Helpful resources for policymakers

Action Plan for NZ Women: <http://www.mwa.govt.nz/news-and-pubs/publications/action-plan.html>

Amnesty International (2004) *Making Rights a Reality: The Duty of States to Address Violence against Women*, ACT 77/049/2004, Amnesty International, London. Available at:

<http://www.amnesty.org/en/library/asset/ACT77/049/2004/en/dom-ACT770492004en.pdf>

Article on the Scottish 'Zero Tolerance' Campaign:

<http://books.google.com/books?id=FN305cTcVWsC&pg=PA349&lpg=PA349&dq=the+three+ps+prevention+protection+provision&source=web&ots=7JF2KsPKt1&sig=X3xPkziKnYPm05yC3r8wBx1cbmY#PPR9,M1>

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Produced by Amnesty International Australia

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