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OHCHR REGISTRY

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Recipients : SEB
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Prof. Yakin Erturk
Special Rapporteur on violence against women,
Its causes and consequences
OHCHR
United Nations Office
Geneva CH-1211
Geneva 10.

Dear Prof.

I have the honour to refer to your letter dated 16 August 2005 concerning a request for information from the Government of Malta on the measures taken to prevent violence against women.

In this context, I am submitting herewith the attached contribution from the Ministry for the Family and Social Solidarity including replies to the questions contained in your letter.

I trust that this submission will assist the Special Rapporteur in the compilation of the report to the sixty-second session of the Commission on Human Rights.

Please accept the assurances of my highest consideration.

Saviour F. Borg
Ambassador
Permanent Representative

Encl

1. Has your Government instituted programmes, policies or other measures to prevent violence against women in the family and community?

The Malta Government has undertaken various initiatives to raise awareness about violence against women and to prevent its incidence.

In March 2002, a Coordinated Response Team on violence against women (CRT) was set up by the Ministry for Social Policy. The CRT includes policy makers, front liners and other professionals from several sectors and Ministries, agencies and entities that come in contact with women who suffer abuse and their children, or who have a crucial role in the prevention of family violence. The ultimate goal of the CRT is to develop and implement a national plan of action on violence against women that ensures a co-ordinated response.

The Coordinated Response Team (on violence against women) and the Domestic Violence Unit within *Agenzija Appogg* (the national agency responsible for social work delivery within the remit of the Ministry for the Family and Social Solidarity), have both embarked on various campaigns (street billboards, contributions to the press, distribution of printed material, participation in radio and television programmes) to promote public awareness about this subject matter. Moreover through its website, *Agenzija Appogg* offers information on the definition of domestic violence and on how to seek help. The agency also runs a helpline for victims and regularly contributes to the Police Force training programme by offering a module on domestic violence. Through such training, police officers are better sensitized about domestic violence and are thus helped to deal better with victims, challenging behaviour, beliefs and practices.

The Domestic Violence Unit within *Agenzija Appogg* has formulated detailed guidelines for such practitioners as doctors, nurses, police, social workers and the clergy, to enable them to detect cases of abused women and to deal appropriately with victims of such abuse.

This awareness and information campaign is further strengthened by the lectures and workshops on Government policies about domestic violence that are incorporated in the academic curriculum of the Institute of Forensic Studies within the University of Malta.

Further to these initiatives which generate awareness about domestic violence and help victims to recognize, understand and seek help for their problem, the National Commission for the Promotion of Equality, an entity that also falls within the portfolio of the Ministry for the Family and Social Solidarity is currently managing a project entitled *Promoting Equality through Education*. This initiative aims to raise awareness about gender discrimination and the relative legislative provisions. In particular, this project aims to correct the gender roles and stereotypes that are often propagated by the formal education process, with a view to possibly lead primary and secondary school students to aspire for work and private life roles influenced by their interests and capabilities rather than by their gender. This project also believes in the effectiveness of

targeting the young and to teach them the values of gender equality while they are in the process of forming their life aspirations and choosing a career path.

The National Commission for the Promotion of Equality includes sexual harassment under its notion of violence against women. In this regard, various awareness activities have been organized. In April 2005, the National Commission for the Promotion of Equality published a Code of Practice on the subject, which was launched during a seminar on the same subject. Following this initiative, the Public Service is now in the process of adopting a sexual harassment policy. The initiative has also generated interest within the private sector, and a number of organizations have adopted a sexual harassment policy or have contacted the National Commission for the Promotion of Equality to inquire about such a possibility.

2. Has your Government instituted programmes, policies or other measures to protect and provide services to women who have been subjected to violence by private actors?

The Malta Government has introduced various measures that offer protection and support to women who have been subjected to violence. These initiatives include:

- a research project that was carried out by the Coordinated Response Team (within the remit of the Ministry for the Family and Social Solidarity) with a view to identify the needs of women residing in shelters and to draw up recommendations to assist the development of policy in this regard;
- the Domestic Violence Unit within the national social work agency *Agenzija Appogg* which provides support to victims of abuse, assists them with adequate shelter, and offers referrals and links to other necessary support services. This Unit which is committed to the prevention of violence through education and the media, has also set up support groups for abused women as well as a support line for adults and children who fall victim of abuse. The support line, Supportline 179, is run by volunteers under the supervision of social workers.
- the setting up of Ghabex, an emergency shelter introduced by the social work agency *Agenzija Appogg* in the year 2000 for women who suffer violence in intimate and family relationships, and their children. The objectives of this measure are to (a) provide safe refuge to women and children requiring emergency and temporary shelter in a safe environment (b) provide professional individual and group support to women and children leaving abusive relationships so that they may begin to deal with the effects of abuse and start working towards making complete plans for their future; (c) generate increased awareness of the dynamics and adverse effects of violence and (d) help women and children understand that abuse is never acceptable or justified.

At *Ghabex*, each resident is assigned a social worker who assesses the resident's needs and organizes the necessary referrals and appointments. The social worker also follows up the cases of women who leave the shelter and settle elsewhere. Besides the social worker, every resident is also allocated a key worker who provides the day to day emotional support and assists the resident in developing her skills, particularly the necessary skills to protect herself and her children better. Besides this individual attention, all residents in the shelter attend a weekly support group that is facilitated by a psychologist. This session caters for the resident's psychological needs.

Further to the *Ghabex* initiative, staff and social workers from the Domestic Violence Unit within *Agenzija Appogg* also work closely with the other three shelter services, two of which are Government subsidised, that cater for battered women.

- a Victim Support Section composed of female personnel was set up within the Malta Police Force Vice Squad in June 1993. The duties carried out by this Victim Support Section include investigating domestic violence and sexual offences.
- the Emergency Rapid Response Service which forms part of the remit of the Police Emergency Services that deals with all emergency calls received by the Command and Control Centre of the Police Department through helpline 191. The aim of this service is to assist and support victims in an emergency. Situations considered as a real emergency are those that pose an immediate threat to life and property. All 191 calls are subject to an assessment before the level of response is decided upon. Only 191 calls which are genuinely urgent will be responded to on an emergency basis.
- the provision of Court Services by *Agenzija Appogg*. These Court Services, which may be considered as an outcome of the Government's White Paper initiative on the Family Division, Civil Court, include supervised access visits, separation mediation and reports to the Courts on such issues as children's custody.

Court services aim to provide, develop and promote social welfare services within the Court setting, by addressing children and family matters. The promotion of the welfare of children before the Courts as well as the provision of support services to families involved in family proceedings are in fact key elements of this Service.

The Court Service receives referrals from the Courts concerning individuals undergoing family proceedings where the presiding Judge/Magistrate recognises the need for some kind of specialist social/psychological intervention. The Court Services conduct an initial assessment to identify the specific needs of that

individual/family, and then draw up a care plan. Court Services work in close liaison with such other services as the Family Therapy Services, Psychological Services, Child Protection Services, Domestic Violence Services. Support service is also offered to those couples whose case appears in front of the Civil Court and is referred to the Department for Family Welfare.

- financial assistance in the form of a weekly allowance and emergency funds that are provided to help women meet emergency expenses following desertion from home. When a battered woman files for legal separation, she is granted the possibility to apply for social security benefits.

Further to the above initiatives, the Malta Government has introduced other measures that indirectly offer protection and support to women who have been subjected to violence.

- The Family Court that was set up in 2004.
- A National Commission for the Family that was appointed in May 2001.
- The National Machinery on Gender Equality that consists of the National Commission for the Promotion of Equality which falls under the responsibility of the Ministry for the Family and Social Solidarity. The National Commission for the Promotion of Equality, an autonomous body that was set up in January 2004, absorbed within it the former Commission for the Advancement of Women and the Department for Women in Society. The functions of this National Commission as established under the Equality for Men and Women Act (Laws of Malta, Chapter 456) are:
 - (a) to identify, establish and update all policies directly or indirectly related to issues of equality for men and women;
 - (b) to identify the needs of persons who are disadvantaged by reasons of their sex and to take such steps within its power and to propose appropriate measures in order to cater for such needs in the widest manner possible;
 - (c) to monitor the implementation of national policies with respect to the promotion of equality for men and women;
 - (d) to liaise between, and ensure the necessary co-ordination between, government departments and other agencies in the implementation of measures, services or initiatives proposed by Government or the Commission from time to time;

- (e) to keep direct and continuous contact with local and foreign bodies working in the field of equality issues, and with other groups, agencies or individuals as the need arises;
 - (f) to work towards the elimination of discrimination between men and women;
 - (g) to carry out general investigations with a view to determine whether the provisions of the Act to Promote Equality for Men and Women are being complied with;
 - (h) to investigate complaints of a more particular or individual character to determine whether the provisions of the Act are being contravened with respect to the complainant and, where deemed appropriate, to mediate with regard to such complaints;
 - (i) to inquire into and advise or make determinations on any matter relating to equality between men and women as may be referred to it by the Minister;
 - (j) to provide assistance, where and as appropriate, to persons suffering from discrimination in enforcing their rights under the Act;
 - (k) to keep under review the working of the Act, and where deemed required, at the request of the Minister or otherwise, submit proposals for its amendment or substitution;
 - (l) to perform such other function as may be assigned by this or any other Act or such other functions as may be assigned by the Minister.
- The Staff Development Organisation (SDO), which provides the training of public service officials, is also including a gender perspective in its training.
 - The University of Malta set up a Committee for Gender Issues in 1991 and has drawn up a set of procedures for dealing with complaints of sexual harassment. The Committee has also been instrumental in the setting up of the Child Day Care Centre at the University, open to academic and administrative staff and students. The service is provided all year round.

3. Has your Government taken measures to prosecute and punish violence against women in the family and community?

Under Maltese domestic law, provisions against gender based violence, together with the respective remedies, are provided for under both Criminal, and Civil Codes. Legislation specifically targeting domestic violence is being discussed by Parliament and has presently reached 3rd stage reading.

- **Criminal Legislation on Violence**

In terms of the Criminal Code, bodily harm is considered as a crime of varying degrees of gravity. It can be grievous, excusable, or slight and of small consequence, with punishments ranging from a fine to imprisonment. Under Maltese law a distinction is made between bodily harm committed on a person and bodily harm that is inflicted on a pregnant woman and which causes miscarriage. The latter case is considered to be the more serious and consequently, is subject to a higher penalty than if it merely hastens delivery of child. Many cases of domestic violence are considered to be of a slight bodily harm nature when they consist of bruising without fractures or entail short term recovery periods. Where bodily harm is slight, proceedings are initiated on the basis of the complaint filed by the injured party who may also request the court to bind over the accused by what is known as a *personal guarantee*, normally for a period of a maximum of one year.

Crimes of rape and violent indecent assault are listed under the title *Crimes against the Peace and Honour of Families, and against Morals* in the Criminal Code. The Code defines rape as carnal knowledge with violence. The punishment prescribed for such an offence is imprisonment for a term of between three and nine years, with or without solitary confinement. No distinction is made between rape within or outside of marriage. Moreover, women's rights within marriage were strengthened by the introduction of the equal rights amendment to the Maltese Constitution in 1991 and the resultant widespread reforms to the status of married women under Civil Law in 1993.

Violent indecent assault is defined in the Criminal Code as any sexually related assault that does not constitute rape or any other crime listed under the Criminal Code. Anyone found guilty of such crime is liable to imprisonment for a term of between three months and one year, with the possibility of increased punishment in cases of aggravated circumstances.

Furthermore, Section 197 of the Criminal Code provides that any husband who compels or induces his wife, who is under age, to prostitution, is liable to imprisonment for a term of between 3 and 6 years with or without solitary confinement. If the wife has reached the age of consent, the husband is liable to a lesser punishment ranging from one to four years. A conviction under this section entails the forfeiture of every authority and right granted to the offender over the person or property of the victim.

Prostitution is also covered by the White Slave Traffic (Suppression) Ordinance which aims at suppressing the traffic of prostitutes. The law provides that whosoever, in order to gratify the lust of any other person, compels or induces a woman over minority age or induces or encourages or facilitates a girl under age of consent to leave Malta for purposes of prostitution elsewhere, shall be liable, on conviction, to imprisonment for a term not exceeding two years, with or without solitary confinement. The punishment is aggravated under certain specified circumstances.

Furthermore, any person who knowingly lives, wholly or in part, on the earnings of the prostitution of any other person, is liable, on conviction, to imprisonment for a term not exceeding two years. Until the contrary is proved, a person is deemed to be knowingly living wholly or in part, on the earnings of prostitution, if it is shown that he lives with, or is habitually in the company of, a woman practicing prostitution or has exercised control, direction or influence over the movements of that woman in any manner which show that he is aiding, abetting or compelling the prostitution of the person with any other person generally.

The Criminal Code, as well as the International Criminal Court Act (Laws of Malta, Chapter 453) create offences in relation to acts which constitute a crime against humanity. Such offences include those instances where rape, sexual slavery, enforced prostitution, enforced sterilization, or any other form of sexual violence of comparable gravity is committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

- **Civil Legislation on Violence**

A victim of domestic abuse can initiate civil proceedings for personal separation against the abusive spouse. By virtue of an amendment introduced in 1993, Section 470 of the Code of Organisation and Civil Procedure provides that a spouse may, at the very inception of proceedings for personal separation, request the Court to decide which of the spouses is to leave the matrimonial home. This constitutes an important remedy and safeguard for battered women who have, in the past, been deterred from taking action so as to avoid upheaval on their departure from the matrimonial home that is particularly detrimental to the children.

- **Nullity of Marriage**

An action for the annulment of marriage may be brought by any one of the parties to the marriage and such marriage may be declared void if one of the grounds expressly laid down in the law is found to subsist. Where the action has been commenced by one of the parties, it may be continued by any of the heirs.

Marriage may be annulled on a number of grounds, including cases where the consent of either of the parties is extorted by physical or moral violence or by fear.

The health authorities, namely, medical practitioners, are obliged by law to report all cases of serious injuries which they may encounter, such as, fractures, injuries to internal organs and disfigurement. Medical certificates are routinely requested by the police in the course of their investigations. The police are often the first to receive reports of violence and in some cases grievous injuries proceedings are taken *ex officio* by the Police independent of the victim's consent.

- **Conclusion**

Victims of sexual harassment as defined under the Equality for Men and Women Act and the Employment and Industrial Relations Act may obtain legal redress in accordance with the said statutory provisions, and may also have recourse to the National Commission for the Promotion of Equality in order to obtain advice and assistance in pursuance of such claims. Damages may also be sought in accordance with the provisions of the Equality for Men and Women Act. Nonetheless, there are no express provisions which allow claims for moral damages in this regard.

In Malta legal aid is available to all persons, including abused women, who have limited financial resources.