



AI Index: IOR 40/6394/2017

2 June 2017

THE UN HUMAN RIGHTS COUNCIL MUST URGE STATES TO TAKE A GENDER-SENSITIVE APPROACH TO COMBATTING ARBITRARY KILLINGS

ITEM 3: AMNESTY INTERNATIONAL'S WRITTEN STATEMENT TO THE 35TH SESSION OF THE UN HUMAN RIGHTS COUNCIL (6 -23 JUNE 2017)

Amnesty International welcomes the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, which emphasizes the need for States, the United Nations and civil societies to take a gender-sensitive approach to combatting arbitrary killings and realizing the right to life.

Studies indicate that violations of women's rights, including in relation to gender-based killings, have historically been less visible in the international human rights treaty system such as through complaints before treaty bodies.¹ Continued efforts are required to ensure human rights standards and mechanisms, including those related to the right to life, are equally responsive to the violations that women face. Special effort must likewise be taken to ensure the experience of LGBTI people are addressed.

In line with the Special Rapporteur's findings, Amnesty International re-affirms four essential elements of a gender-sensitive approach to combatting arbitrary killings and realizing the right to life, which require particular attention.

A gender-sensitive approach must address gender-based killings by both State and non-state actors

Women and LGBTI people continue to be targeted for killings by state actors, including for transgression of gender-norms or because of their sexual orientation.²

However, as noted by the Special Rapporteur, studies estimate that almost half of the global homicides of women are carried out by intimate partners or family members.³ So called "honour" crimes, typically carried out by family members, disproportionately target women and LGBTI people.⁴

¹ Alice Edwards, 2011. *Violence Against Women under International Human Rights law*, chapter 3, Cambridge University Press. "There have been no individual cases brought to the human rights committee... decided under the right-to-life provision in the context of violence against women." (p124).

² Amnesty International, 2015. "Their lives on the line: Women human rights defenders under attack in Afghanistan; and Amnesty International 2017, "Russian Federation: Men suspect gay abducted, tortured or killed".

³ United Nations ODC, 2013. *Global Study on Homicide 2013*, p. 14.

⁴ See e.g. Amnesty International 2016, "Pakistan: End impunity for honor crimes"; Amnesty International 2015, "Turkey: Seven Years on, still no justice for Ahmet Yildiz".

Amnesty International has also documented patterns of killings and attacks of women and LGBTI people by armed actors and criminal gangs motivated by discriminatory attitudes and/or a climate of impunity for such acts.⁵

States' obligations to act with due diligence to protect individuals from violence by non-state actors are well established in human rights law.⁶ Loss of life resulting from the failure to comply with those obligations may constitute arbitrary deprivation of life.

States must take preventive measures to protect life, including by adopting the necessary laws and practices to prohibit gender-based killings. To be effective, relevant laws should also be accompanied with a range of broader measures such as training for police, prosecutors and judiciary; protection and support for potential victims, and awareness raising about their rights and the law.

Crucially, as highlighted by the Special Rapporteur, States must also address the root causes of gender-based violence. Amnesty International has consistently documented that negative gender stereotypes, economic, social and cultural marginalization, and other forms of disempowerment and exclusion, increase women and LGBTI people's risk of being unlawfully killed.⁷

Firearms are the principal mechanism of intimate partner homicide in countries with high rates of firearm ownership.⁸ USA focused studies indicate that the presence of a firearm in the home increases the risk of women being killed by intimate partners.⁹ Efforts to prevent intimate partner homicides should therefore include the adoption of strict laws and practices to prohibit access to firearms in situations where there is a risk of intimate partner violence.

States are required to take all preventive operational measures that can be reasonably expected of them to protect an individual whose life is at risk.¹⁰ In addition to their obligations in relation to individual cases, the Inter-American Court of Human Rights has required that, where a State becomes aware of a pattern of violence against women, it must adopt a "general policy" to address it.¹¹

States must bring all those suspected of criminal responsibility for gender-based crimes to justice in fair trials without recourse to death penalty. In addition, providing for universal jurisdiction, as pointed out by the Special Rapporteur, is also an important tool that states should enact and enforce.¹²

A gender-sensitive approach must embrace the links between the right to life and socio-economic rights

5 Amnesty International, 2015. "Their lives on the line: Women human rights defenders under attack in Afghanistan". Amnesty International, 2013; "Time to end inaction over killings of women and girls in Guatemala"; Amnesty International 2012, "Nothing to be Proud of: Targeting LGBTI individuals in Ukraine"; Amnesty International 2017, "Authorities fail to curb brutal killing spree as LGBTI editor hacked to death in Bangladesh".

⁶ HRC, General Comment 31, CCPR/C/21/Rev.1/Add.13, para. 8. Also see, among others, ECtHR, *Cyprus v. Turkey*, Application No. 25781/94, para. 81; IACtHR, *Velasquez Rodriguez v. Honduras*, Judgment of 29 July 1988 (merits), para. 172.

⁷ See e.g. Amnesty International, 2008. "Iran: End executions by stoning", pp 7-8; Amnesty International 2004: "Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada".

⁸ John Hopkins Bloomberg School of Public Health, Center for Gun Policy and Research, Factsheet, http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/IPV_Guns.pdf; Institute for Security Studies, Guns don't mean safety, especially for women, <https://issafrica.org/iss-today/guns-dont-mean-safety-especially-for-women>; Law Center to Prevent Gun Violence, Domestic Violence & Firearms, <http://smartgunlaws.org/gun-laws/policy-areas/background-checks/domestic-violence-firearms/>.

⁹ See e.g. Violence Policy Center, *When Men Murder Women: An Analysis of 2011 Homicide Data*, September 2013, <http://www.vpc.org/studies/wmmw2013.pdf>.

¹⁰ E.g. ECtHR, *Osman v. United Kingdom*, Application No. 87/1997/871/1083, paras 115, 116; IACtHR *Case of the Pueblo Bello Massacre v. Colombia* Judgment of 31/01/2006, para 120.

¹¹ IACtHR, *Gonzalez et al ('Cotton Field') v Mexico*, Judgment of November 16, 2009, para 282.

¹² For more information, see Amnesty International 2014, *Combating sexual violence in conflict, recommendations to States at the Global Summit to End sexual Violence in Conflict* (10-13 June 2014), pp 7-9.

Regional human rights courts and UN human rights treaty bodies have recognized that insufficient availability or accessibility of economic and social goods, such as health care or food, may constitute a violation of the right to life where affected individuals lives are put at risk.¹³

The importance of these connections in promoting a gender-sensitive approach to the right to life is evident for example in studies of mortality patterns during armed conflicts. While men are more likely to die as a result of violence during hostilities, women are more likely to die as a result of socio-economic factors such as infectious diseases, malnutrition and maternal mortality.¹⁴ A more expansive view of the right to life is essential to capture the experiences most relevant to women.

Amnesty International has documented how women face numerous barriers accessing maternal healthcare, contributing to high rates of maternal mortality in a number of country contexts.¹⁵ The organization has likewise documented how barriers to other forms of lifesaving healthcare may disproportionately affect women.¹⁶

The criminalization of abortion compels women and girls to undergo illegal abortions and as such many die as a result of clandestine and unsafe abortions.¹⁷ Women and girls may also be denied access to health care for serious medical conditions on the grounds that treatment may damage the foetus.¹⁸ Amnesty International welcomes the Special Rapporteur's consideration of the issue of death resulting from deliberate denial of access to life-saving medical care because of an absolute legal ban on abortion, as an arbitrary killing.¹⁹

A gender-sensitive approach must be intersectional

As noted by the Special Rapporteur, additional forms of discrimination strongly affect or compound the violations women or LGBTI people face, including on the basis of race, indigenous and minority status. This must be recognized and addressed in policy-making.

Homicide rates are often higher for women who experience intersectional discrimination. Amnesty International has documented how indigenous women are pushed deeper into unsafe living and working environments, and are targeted particularly because of racist or sexist attitudes, or higher levels of impunity for such crimes.²⁰ It has also documented how LGBTI individuals face intersectional discrimination, including on the basis of socio-economic status, that affects their ability to protect themselves from homophobic violence.²¹

¹³ E.g. HRC, General Comment 6, Article 6 (Right to life), para. 5. IACTHR, Case of the "Juvenile Reeducation Institute" v. Paraguay, 2 September 2004, paras 149, 159, 168, 172; ECtHR, Cyprus v. Turkey, Application No. 25781/94, para. 219.

¹⁴ IPRI, 2009. "Armed conflict deaths desegregated by gender":

http://file.prio.no/Publication_files/Prio/Armed%20Conflict%20Deaths%20Disaggregated%20by%20Gender.pdf.

¹⁵ E.g. Amnesty International 2014, "Struggle for maternal care: Barriers to access ante-natal services in South Africa, Amnesty International 2009 "Giving life, risking death: maternal mortality in Burkina Faso".

¹⁶ Amnesty International, 2009. "I am at the lowest end of all: Rural women living with HIV face human rights abuses in South Africa".

¹⁷ According to the WHO, unsafe abortion is the third leading cause of maternal mortality globally, causing about 47,000 deaths per annum, or 13% of all maternal deaths. These figures reflect that globally deaths and morbidity resulting from abortion are high in countries where access to abortion is legally restricted. WHO and Guttmacher Institute, "Facts on Induced Abortion Worldwide, In Brief", 2012.

¹⁸ E.g. Amnesty International, 2009. "The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized"; Amnesty International, 2014. "On the brink of death: Violence against women and the abortion ban on El Salvador".

¹⁹ A/HRC/35/23, para 94.

²⁰ See e.g., Amnesty International 2004: "Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada".

²¹ Amnesty International 2014, "Making love a crime: The criminalization of same-sex conduct in Sub-Saharan Africa" for an intersectional analysis of the discrimination faced by LGBTI people in that context

People facing gender and other intersectional forms of discrimination, especially on the basis of migrant status, and race, may also fear deportation, arrest or violence by State authorities, including the police.²²

Intersectional forms of discrimination may also undermine women's access to healthcare, resulting in significantly higher mortality rates for affected women. Affected women may for example face discriminatory attitudes, and linguistic or cultural barriers, and be more likely to struggle to afford any costs involved in obtaining medical treatment.²³

A gender-sensitive approach must recognize secondary victimization

As noted by the Special Rapporteur, women are particularly affected by the extrajudicial killing of their partners and other family members. Amnesty International has documented how women are frequently left to confront the associated stigma, fear, insecurity and economic deprivation, in addition to the burdens of seeking justice.²⁴

Human rights treaty bodies and regional courts are increasingly recognizing that in certain circumstances where individuals have suffered mental harm as a result of the enforced disappearance of family members,²⁵ or forced to watch family members being tortured there is a violation of the prohibition on torture and ill-treatment.²⁶ The harm experienced by individuals with close bonds to other victims of right to life violations must be systematically recognized and redressed.

Recommendations to the thirty-fifth regular session of the Human Rights Council

Amnesty International recommends that the Human Rights Council:

- Calls upon States to implement the recommendations in the report of the Special Rapporteur so as to ensure a gender-sensitive approach to their efforts to combat arbitrary killings and realize the right to life
- Calls upon States to ensure that they take a gender sensitive approach in their reporting to human rights mechanisms, including in relation to reporting on right to life violations, and engage with and support organizations addressing gender-based violations of the right to life
- Calls upon UN bodies and civil societies to uphold and reaffirm the principles listed above and in the Special Rapporteur's report in their standard setting and decision-making.

²² See e.g., Amnesty International 2016, "The human cost of 'crushing' the market: Criminalization of sex work in Norway", pp 40-42". Amnesty International 2013, "Because of who I am: Homophobia, transphobia and hate crimes in Europe".

²³ See e.g. Amnesty International 2010, "USA: Deadly delivery, the maternal health care crisis in the USA", and Amnesty International 2013, "Unnecessary Burden: Uterine prolapse and gender discrimination in Nepal"; Amnesty International 2009, "Peru: Fatal flows – barriers to maternal health in Peru".

²⁴ See e.g. Amnesty International 2017, "Sri Lanka - Victims of disappearance cannot wait any longer for justice".

²⁵ See for example: *Quinteros v. Uruguay*, HRC, Communication No. 107/1981, Views of 21 July 1983; *Kurt v. Turkey*, ECtHR, Application No. 24276/94, 25 May 1998; *Villagrán Morales et al. v. Guatemala*, IACtHR Series C No. 77, 19 November 1999.

²⁶ IACtHR, *Maritza Urrutia v. Guatemala*. 27 November, 2003. Series C No. 103. Furthermore, in respect of the right to redress and reparation, the concept of victim is also defined widely to include immediate family members and certain others. See: *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, para 8.