



# Human Rights and Domestic Violence Fact Sheet

## Police

### What is the purpose of this fact sheet?

Domestic and family violence is a serious violation of human rights and a substantial barrier to achieving gender equality. This fact sheet outlines human rights obligations relevant to domestic violence and policing. Service providers can use this information to advocate for individual clients, or to support arguments for changes to law, policy and practice.

There are also State laws and regulatory frameworks that relate to family violence and the police that are not considered in this fact sheet. You should contact your local community legal centre if you would like to discuss these.<sup>[1]</sup>

### What are the relevant human rights?

The *Convention on the Elimination of Discrimination of All Forms of Discrimination against Women* (CEDAW) recognises that violence against women is a form of discrimination. It requires governments to exercise 'due diligence' to prevent and respond to violence against women, including domestic and family violence.<sup>[2]</sup> This means that governments must take reasonable and effective measures to prevent, investigate, punish and redress domestic violence.<sup>[3]</sup>

Several other human rights obligations may be relevant to domestic and family violence and policing, depending on the circumstances, for example, the right to life is protected under the *International Covenant on Civil and Political Rights* (ICCPR).

### How do these rights relate to domestic violence and the police?

States may be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence.<sup>[4]</sup> The UN Committee on the Elimination of Discrimination against Women has found that police have an obligation to respond to allegations of domestic violence.<sup>[5]</sup> Human rights law requires that governments ensure that all allegations of domestic violence are investigated promptly, thoroughly, impartially and seriously.<sup>[6]</sup>

In *Şahide Goekce v Austria* the UN Committee on the Elimination of Discrimination against Women considered Austria's responsibility for the death of Şahide Goekce, who was killed by her husband.<sup>[7]</sup> Ms Goekce had called an emergency service a few hours before she was killed, but no patrol car was sent to the scene of the crime, despite the fact that Ms Goekce's husband was known to be a dangerous and violent criminal.

The Committee decided that, due to reports of violence and threats of violence over several years, the police knew or should have known that Ms Goekce was in serious danger and should have treated her last call as an emergency. By not responding to the call immediately, the police were accountable for failing to exercise due diligence to protect Ms Goekce.

1. To find your local community legal centre, go to: <http://www.naalc.org.au/>. Contact details for women's legal services are available here: [http://www.wlsa.org.au/contact\\_us](http://www.wlsa.org.au/contact_us)
2. Committee on the Elimination of Discrimination Against Women, *General Recommendation no. 19: Violence Against Women*, (1992) 5; *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*, Yakin Ertürk, 20 January 2006
3. Ibid
4. *Sahide Goekce (deceased) v. Austria*, 6 August 2007; *Fatma Yildirim (deceased) v. Austria*, 6 August 2007
5. *Isatou Jallow v. Bulgaria*, 23 July 2012
6. *González et al ('Cotton Field') v Mexico*, 16 November 2009; Ciudad Juárez Inquiry, [271]-[286]
7. *Sahide Goekce (deceased) v. Austria*, 6 August 2007



## How do I make a complaint about a human rights violation?

If the government has failed to meet its human rights obligations the following complaints mechanisms may be available:

1. If you are in Victoria or the ACT you may be able to challenge the act or decision under state-based human rights laws that require public authorities to give consideration to and act in accordance with human rights.<sup>[8]</sup>
2. If the complaint is against the Commonwealth Government or one of its agencies, you may be able to make a complaint to the Australian Human Rights Commission.<sup>[9]</sup>
3. In some cases, you may be able to make an individual complaint to the UN Committee on the Elimination of Discrimination Against Women. Alternatively, if the issue is 'grave or systematic', you could ask the Committee to conduct an inquiry. These procedures are available under the Optional Protocol to the *Convention on the Elimination of all Forms of Discrimination against Women*.<sup>[10]</sup>



### Jessie's Story

Jessie, an Aboriginal woman who lives in a rural area, was harassed and stalked by her violent ex-partner. She went to the police on numerous occasions, but they refused to take her seriously and investigate and respond to her allegations.

In this case the government's 'due diligence' and other human rights obligations require that police recognise and respond to Jessie's complaints. Article 14 of CEDAW requires governments to 'take into account the particular problems faced by rural women'. The government is also obliged to ensure that Jessie is not further disadvantaged because she is Aboriginal.

[hrlc.org.au/women](http://hrlc.org.au/women)

## Thanks

Thanks to Aboriginal Family Violence Prevention and Legal Service Victoria, Domestic Violence Resource Centre Victoria, Domestic Violence Victoria, Federation of Community Legal Centres, Maddocks and Women's Legal Service Victoria for their advice and assistance.

## Contact

For more information please contact Rachel Ball, Director of Advocacy & Campaigns, at the Human Rights Law Centre on (03) 8636 4433

8. *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, s.38; *Human Rights Act 2004 (ACT)*, s.40B
9. For more information see: <http://www.humanrights.gov.au/complaints-about-breaches-human-rights>
10. For more information see: <http://www.humanrights.gov.au/publications/mechanisms-advancing-women-s-human-rights-guide-using-optional-protocol-cedaw-and-other>  
\* Case study adapted from Domestic Violence Resource Centre Victoria publication 'Jody's Story' <http://www.dvrcv.org.au/stories/jodys-story/>



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