

Mandates of the Independent Expert on the enjoyment of all human rights by older persons; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

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Excellency,

We have the honour to address you in our capacities as Independent Expert on the enjoyment of all human rights by older persons; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 51/4, 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the failure to effectively address complaints of repeated domestic violence against Ms. Anastasia Pinto, in particular during the lockdown during the COVID-19 pandemic, that led to the violation of her rights to be free from violence and to adequate standard of living, among others, to adequate housing.**

According to the information received:

Ms. Anastasia Pinto is a 65-year-old Christian woman, sociologist and former human rights activist from Goa and former board member of Board of Trustees of United Nations Voluntary Fund for Victims of Torture (UNVFVT) from 2011 to 2016.

In 1989, Ms. Anastasia Pinto married Mr. [REDACTED] (hereafter Mr. [REDACTED] under Hindu Customary rites at the Palace Compound, Imphal. They had two children, a boy in 1991 and a girl in 1992. Their marriage was only registered on 5 January 2008 under Hindu Marriage Act 1955. This date also coincides with the adoption of the 2008 Act providing for compulsory registration of marriage solemnized in the State of Manipur irrespective of caste, religion and creed.

Early in their marriage, Ms. Anastasia Pinto was reportedly regularly physically harassed and emotionally abused, through the use of demeaning language, by her family in-law for not being from Manipur and fluent in the local language, as well as for being Christian. Ms. Pinto was allegedly repeatedly asked to provide money to her family in law, under pressure, to pay for the family house repairs as well as to cover expenses for her two children including food, medicine, school fees. It is reported that she gave around INR 60-70 thousand (approx. USD 725 to 845) to repair the family house located in Yaiskul Police Lane, Manipur.

These acts of financial pressure were usually coupled with repeated violent and abusive acts and behaviour against Ms. Pinto from her husband and his relatives.

In 2007, Ms. Pinto became aware that her husband had started to drink heavily, resulting in him becoming more violent towards his wife and his children. The same year, Ms. Pinto decided to send her children to Goa with her parents, due to the violent behaviour of Mr. [REDACTED] as well as due to security concerns related to the ongoing armed conflict taking place in Manipur between India and separatist groups. Also, at this time Ms. Pinto was involved in reporting human rights violations. The move of her children was also reportedly motivated by the fact that her husband requested that their children be schooled in a boarding school, but Ms. Pinto could not afford the fees.

In 2008, it is reported that Ms. Pinto left the family house located in Yaiskul Police Lane to go back to her parents' home in Goa.

From 2009, the health status of Ms. Pinto's mother-in-law became worse, and Ms. Pinto was coerced by her husband to cover the costs of her medical treatment. Ms. Pinto's mother-in-law passed away of illness in 2011 and she was forced to pay considerable bills for the funeral rituals. Her medical treatment and the funeral arrangements amounted to over Rs. 11 lakhs (approx. USD 13,300). To respond to the financial pressure put on her, Ms. Pinto reportedly was coerced to sell a land of 4,000 square meters with a small house in Pomburpa Goa, gifted by her father as her share of the family inheritance.

From 2013 to 2016, it is reported that Ms. Pinto frequently paid for Mr. [REDACTED] to travel to Goa from Imphal so he could see his children. However, due to his violent and abusive behaviour, Ms. Pinto stopped allowing him to come. It is reported that on some occasions, he also assaulted his children, especially his daughter by beating her.

On 14 March 2020, Ms. Pinto returned to Manipur upon the request of her husband, to resolve the situation of her financial investments in the family house over the past years with the objective to end their relationship. Indeed, Ms. Pinto was informed that Mr. [REDACTED] was able to repay her the money she had lent him over the past years and provide proper maintenance for their children. Due to the declaration of quarantine in response to the COVID-19 crisis, she had to quarantine at the family house, where she reportedly suffered regular verbal and physical abuse from her husband and his new partner who was co-habiting with Mr. [REDACTED] in the family house. Mr. [REDACTED] reportedly physically assaulted Ms. Pinto, causing her bruises and threatened that he would not provide her food nor allow her to access his kitchen. It is reported that on one occasion, her husband attempted forcibly and physically to evict her. Ms. Pinto also received verbal threats from her brother-in-law, Mr. [REDACTED] [REDACTED]

In April 2020, Ms. Pinto filed a complaint for domestic violence against her husband to the police and requested an interim and ex-parte monetary relief for an amount of Rs. 30,000 (approx. USD 365) per month as maintenance allowance.

In July 2020, (Matrimonial (DEC.) Suit no. 4 of 2020 was filed. On 6 July 2020, the Ld. Predecessor passed an *ex-parte* interim protection order prohibiting Mr. [REDACTED] from committing any act of

domestic violence against Ms. Pinto and restrained Mr. [REDACTED] from dispossessing Ms. Pinto from the shared household or in any manner disturbing the possession of Ms. Pinto from the shared household in Manipur. As Ms. Pinto did not have any income at the time, the court ordered Mr. [REDACTED] to pay a maintenance allowance of Rs. 18,000 (approx. USD 220) per month to Ms. Pinto as of August 2022.

It is reported that in response to this ruling, Mr. [REDACTED] filed a case stating that Ms. Pinto is not his legal wife which was then dismissed in the lower court. Mr. [REDACTED] then filed an appeal to the High Court of Manipur.

On 15 July 2020, Mr. [REDACTED] allegedly stated that he would not comply with the interim Protection Order and threatened Ms. Pinto, before locking her out of the house.

On 28 July 2020, Mr. [REDACTED] verbally abused Ms. Pinto and violently pushed her, causing her bruises on her arms.

On 3 August 2020, Ms. Pinto called the Protection Officer to inform her about the ill-treatment she was suffering from her husband, asking them to visit the house. In response, Ms. Pinto's husband threatened to forcibly evict her from the family house.

On 7 September 2020, following an argument, Mr. [REDACTED] allegedly intentionally hit her with his car three times while Ms. Pinto was trying to stop him from leaving, before leaving the house and not returning for several days.

On 9 October 2020, Ms. Pinto's husband returned to the family house, and started harassing Ms. Pinto, verbally and physically. The day after, following the complaints of Ms. Pinto, the police along with the Protection officer came to the family house to assess the situation and speak with Mr. [REDACTED] to respect the protection order. On 12 October 2020, an immediate interim residential order was issued. It is reported that Ms. [REDACTED] did not mend his behaviour and due to COVID-19 induced constraints, the protection orders failed to be properly implemented with regular visits and assessments from the Protection Officer. Despite facing constant and regular verbal and physical from her husband and brother-in-law and having no other alternative housing options in Manipur, Ms. Pinto remained at the family house, as the legal proceedings regarding the case filed for domestic violence were still ongoing. Indeed, Ms. Pinto had been advised by her legal representative to remain in Manipur, as she could not afford back and forth travels to Goa. Furthermore, at the time she was led to believe that she would remain entitled to inherit a share of the marital house as the wife of Mr. [REDACTED] and did not want to show that she might have surrendered that right. She was still also waiting for the promised compensation for the money she had lent to her husband and his family over the years.

On 29 October 2022, while Ms. Pinto was at the Magistrate's Court awaiting to hear about her domestic violence case, Mr. [REDACTED], Ms. Pinto's brother-in-law, reportedly informed her via WhatsApp messages that she would be restricted access to the family house in Manipur. When she later arrived at the house with her legal representative, Mr. [REDACTED]

██████████ refused her access to the house, resulting in her being forcibly evicted and having no other place to go. It is to be reported that it is only at this time that Ms. Pinto learnt that Mr. ██████████ had become the owner of the land and of the family house in Yaiskul Police Lane, at the passing of his mother in 2011.

On 30 October 2022, Ms. Pinto filed an urgent appeal against Mr. ██████████ ██████████ to the Women Police Station of Imphal West district. On the same day, a copy of the complaint was sent to the State Women's Commission. It is reported that following her complaint, the Women Police escorted her to the emergency short stay home for women. From there, she was then escorted by the Women Police together with a staff from the Senior Citizens' helpline to the family house in order to retrieve her personal belongings. Upon their arrival, Ms. Pinto's brother-in-law refused her the access without a court order. She then addressed a request to the domestic violence (family) court to urgently collect her belongings, including medication for asthma, a medical condition that Ms. Pinto suffers from.

A month after her forced eviction, Ms. Pinto received from the domestic violence (family) court the limited right to collect her belongings in the family house along with her lawyers and the Protection officer. While Ms. Pinto was packing her few remaining belongings, her brother-in-law harassed her by taking photographs and insisted that she should be supervised in case she would steal anything.

On 16 November 2022, Ms. Pinto received a phone call from the State Women's Commission instructing her to appear before them at once. As the shelter where she was placed by the Helpline was one hour from the Commission's venue, she arrived when the hearing was over. Two commissioners reportedly informally interviewed her. On 23 November 2022, a following hearing was scheduled where she appeared alone without the alleged perpetrators to her grievance. The Commission informed her that an inquiry would be conducted, but she has not heard any update on it to date.

To date, Ms. Pinto has been staying at a home for Destitute Senior Women in Manipur and legal proceedings remain pending, while the judgement of (Matrimonial (DEC.) Suit no. 4 of 2020 has still not been effectively implemented and no follow up action was taken regarding the breach of the ex-parte order. To date, Ms. Pinto does not have any source of income and suffers from economic hardship having spent, as a result of psychological pressure and violence, all her revenues and inheritance to finance the needs of her in-laws. It was reported that Mr. ██████████ paid twice Rs. 10,000 (approx. USD 121) to Ms. Pinto as part of the Court order, once in November 2022 and once in March 2023.

While we do not wish to prejudge the accuracy of the alleged facts mentioned above, we express our serious concern at the reported series of acts of domestic violence, including of a physical, emotional and financial nature, against Ms. Anastasia Pinto by Mr. ██████████ ██████████ and his family, in particular Mr. ██████████, that have taken place over the past several years.

We are furthermore concerned that during exceptional circumstance such as the lockdown due to the COVID-19 pandemic, protective measures and immediate remedies from law enforcement actors have proven outright ineffective, especially in cases of domestic violence. Ms Pinto's case is emblematic for the dire situation that many women and their families must have endured, threatening their health and life.

While we acknowledge that the authorities have taken actions following Ms. Pinto's complaints, we remain concerned that these have not afforded her timely, sufficient and effective protection, and have not been sensitive to her financial and housing situation. The reported acts of violence led to the forced eviction of Ms. Anastasia Pinto and indefinite placement in a domestic violence shelter, who was left without any financial resources or alternative housing options as her husband still has not paid his maintenance allowance as ordered by the Court, and as she was coerced into selling her inherited property in her hometown to under the pressure of her in-laws' financial requests. Women and especially older women victims of domestic violence are more likely to find themselves in disadvantaged and precarious situations, that may lead to forced eviction and property grabbing from the perpetrators, as well as to homelessness and extreme poverty. We are concerned that the inadequate response of the authorities might have led to the violations of Ms. Pinto's right to be free from violence, right to equality and non-discrimination and her right to an adequate standard of living, including to adequate housing.

Finally, while Ms. Pinto lived and was legally recognised as the legal wife of Mr. [REDACTED] we are further concerned that Ms. Pinto's equal rights in the separation with her husband might be undermined due to existing gender-based and religious-based discriminatory provisions and practices. Such provisions and practices have an impact on women's economic status following the dissolution of their marriage and the economic consequences of separation or divorce usually get aggravated in older age.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about the measures taken to investigate the complaints of domestic violence reported by Ms. Pinto and to enforce the protection orders issued in her favour.
3. Please explain what concrete steps your Excellency's Government took before announcing the COVID-19 quarantine and during the lockdown itself, to enhance and endure the effectiveness of prevention and protection measures against domestic violence.
4. Please provide information about measures and effective remedies taken or that will be undertaken to ensure Ms. Pinto's right to an

adequate standard of living, including her right to adequate housing.

5. Please provide information on measures undertaken, including legislative steps, to guarantee the equal rights of spouses in the event of separation and/or divorce concerning the right to property and land, particularly to prevent forced evictions and homelessness.
6. Please kindly specify how your Excellency's Government implements provisions related to compulsory marriage registration and which legal safeguards are in place to protect and guarantee women's rights in inter-faith marriages upon separation or dissolution, as per international human rights standards regarding equality in marriage.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Claudia Mahler

Independent Expert on the enjoyment of all human rights by older persons

Reem Alsalem

Special Rapporteur on violence against women and girls, its causes and consequences

Dorothy Estrada-Tanck

Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like further to bring attention to article 1, 2, 3, 4, 5 and 15 of the Convention on the Elimination of all forms of Discrimination against Women to which your Excellency's Government is state party since 9 July 1993, that guarantees the principle of non-discrimination and equality for women, their right to security of person, the need to take appropriate measures to change social cultural patterns of social conducts and behaviours, and equality before law for both men and women. The Convention on the Elimination of All Forms of Discrimination against Women also recognises the right of all women to enjoy adequate living conditions, particularly in relation to housing (article 14.2). Furthermore, States Parties shall undertake all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular ensure, on a basis of equality of men and women [...] (h) the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration (article 16.1).

Furthermore, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation no. 19 (1992), updated by general recommendation no. 35 (2017) defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women, whether perpetrated by a state official or a private citizen, in public or private life. The CEDAW further recommended that States parties to adopt and implement effective measures to protect and assist women complainants of and witnesses to gender-based violence before, during and after legal proceedings. Finally, it recommended States parties to ensure effective access for victims to courts and tribunals and that the authorities adequately respond to all cases of gender-based violence against women, including by applying criminal law and, as appropriate, ex officio prosecution to bring alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and imposing adequate penalties.

Besides, the CEDAW considers that States parties are under an obligation to act with due diligence to investigate all crimes perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In general recommendation no. 35, the Committee clarifies that the due diligence obligation underpins the Convention as a whole and that States parties will be held responsible should they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparations form acts or omissions by non-State actors that result in gender-based violence against women. Under the obligation of due diligence States parties must adopt and implement diverse measures to tackle gender-based violence against women committed by non-State actors, including having laws, institutions and a system in place to address such violence and ensuring that they function effectively in practice and are supported by all State agents and bodies who diligently enforce the laws. The failure of a state party to take all appropriate measures to prevent acts of gender-based violence against women in cases in which its authorities are aware or should be aware of the risk of such violence, or the failure

to investigate to prosecute and punish perpetrators and to provide reparations to victims/survivors of such acts, provides tacit permission or encouragement to perpetrate acts of gender-based violence against women. Such failures or omissions constitute human rights violations.

We wish also to refer to the Declaration on the Elimination of Violence against Women, which was adopted by the United Nations General Assembly and states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, *inter alia*, (a) the right to life, (b) the right to equality, (c) the right to liberty and security of person, and (d) the right to equal protection under the law (article 3). In addition, the article 4(g) of the Declaration provides for the responsibility of States to ensure that women subjected to violence have specialized assistance, such as rehabilitation, treatment counselling and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation.

With regard to the current living situation faced by Ms. Pinto that was triggered by acts of domestic violence, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the fundamental rights in accordance with the principles as set forth in articles 2(1), 3(a) (c), 14, 23(4) and 26 of the International Covenant on Civil and Political Rights (ICCPR) to which India is state party since 10 April 1979, providing for the principle of non-discrimination, equal right to enjoyment of rights for men and women, equality before the law of men and women, equality of rights and responsibility of spouses, and equal protection before the law without discrimination.

We would like to remind you also the equal importance of the socio-economic and cultural rights of men and women deriving from the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which India is state party since 10 April 1979. In particular, article 3 providing for the equal right of men and women in the enjoyment of all economic, social and cultural rights, as well as article 11(1) enshrining the right to an adequate standard of living including the adequate food, clothing and housing.

General comment no. 4 (1991) of the Committee on Economic, Social and Cultural Rights (CESCR) recognizes that the right to adequate housing goes beyond having a roof over one's head. Rather, CESCR links it to the fundamental principle of the inherent dignity of the human person, upon which the Covenant is based, defining the right to adequate housing as the right to live somewhere in security, peace and dignity. In both general comments nos. 4 and 7, the Committee affirms that forced evictions are *prima facie* incompatible with the provisions of international law, and in general comment no. 7 goes on to list procedural safeguards that should be applied to prevent forced evictions.

We also recall the 2020 report on COVID-19 and the right to adequate housing (A/75/148) to the General Assembly, in which the Special Rapporteur on the right to adequate housing warned that the lockdown has resulted in higher levels of domestic abuse and violence and listed a number of actions that countries have taken to enhance prevention and emergency protection measures.

Furthermore, in its general comment no. 16 (2005), the CESCR has also recognized that age can lead to multiple and compounded discrimination in the enjoyment of economic, social and cultural rights by women (para. 5). It also notes in relation to article 10 of the Covenant, which addresses family-related rights, that States parties are required to “provide victims of domestic violence, who are primarily female, with access to safe housing, remedies and redress for physical, mental and emotional damage” (para. 27).

Additionally, in its general recommendation no. 27 (2010) on older women and the protection of their human rights, the CEDAW stated laws and practices that negatively affect older women's right to housing, land and property should be abolished. States parties should also protect older women against forced evictions and homelessness (para. 48). We would also like to recall that in its general recommendation no. 29 (2013), the CEDAW expressed concerns at the economic consequences for women, as well mentioned that States parties are obligated to provide, upon divorce and/or separation, for equality between the parties in the division of all property accumulated during the marriage. States parties should recognize the value of indirect, including non-financial, contributions with regard to the acquisition of property acquired during the marriage. (para. 46) The CEDAW also strongly encouraged States to provide for women with adequate housing to replace the use of the family home in case of separation.

In her 2000 report on economic and social policy and its impact on violence against women, the United Nations Special Rapporteur on violence against women, its causes and consequences (E/CN.4/2000/68/Add.5.) underlined that women’s poverty, together with a lack of other housing options, made it difficult for women to leave violent family situations, and reaffirmed that forced relocation and forced eviction from home and land had a disproportionate impact on women, especially when these violations were committed by spouses or in-laws.

We would like also to recall that in her 2021 thematic report to the General Assembly (A/76/157), the Independent Expert on the enjoyment of all human rights by older persons noted that “The ability to acquire and control assets, including land, over the life course affects women’s wealth accumulation and adequate standard of living in older age. Discriminatory marital property and inheritance regimes continue to disadvantage women, including in older age.” (Para. 32)

In her 2022 thematic report to the General Assembly on older persons and their right to adequate housing (A/77/239), the Independent Expert on the enjoyment of all human rights by older persons recalled in the context of the right to adequate housing, that domestic violence is a form of discrimination that also affect older women, as a high proportion of the reported domestic violence against older women is committed by their partners, adult children and other relatives (para. 66).

The Working Group on discrimination against women and girls has underlined that many women experience violence at the hands of family members, caregivers, partners, friends and acquaintances. Domestic and community violence often manifests in the form of home confinement, in which women are prohibited from leaving the home or coerced to remain in a certain location. Women are also less likely to have access to assets within the household, as there are often inequalities in the distribution of resources and entitlements. Unequal access to and control over resources, power, opportunities and services underpin women’s poverty. Further,

Older women without resources or livelihoods are often neglected by their families and find themselves involuntarily isolated in the home or in a care facility. They are more exposed to violence, conflict, and economic “unfreedom” than other women. The Working Group has concluded that ensuring that women enjoy liberty to the full extent and in equal measure with men will require the transformation of societies to root out harmful stereotypes and economic and social inequities.

The Working Group on discrimination against women and girls has emphasized that discrimination against women within the family is barred by international human rights law, and that true equality for women and girls can never be achieved if they are treated unequally within their own homes and has recommended States to develop effective mechanisms to combat the multiple and intersecting forms of discrimination suffered by all marginalized women, including older women (A/HRC/29/40).