

# PATHWAYS TO JUSTICE

Gender-Based Violence and the Rule of Law



Compiled by Beatriz García Nice, Anya Prusa, and Olivia Soledad

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Gender Based  
Violence



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Photo credit: A woman looks on in horror at the Eleonas Refugee Camp in Athens, Greece: Alexandros Michailidis, Shutterstock, April 2016



## About the Series

Gender-based violence (GBV) affects one in three women worldwide, making it an urgent and important policy challenge. Many countries around the world have passed laws intended to protect women from violence, yet violence persists. Over the past year, the COVID-19 pandemic has raised awareness of the perils women face from gender-based violence—what has come to be known as the “shadow pandemic”—but it has also aggravated risk factors while increasing barriers to protection, support, and justice.

This publication aims to focus on the intersection of gender-based violence and the rule of law by examining how legal frameworks, judicial system responses, and public policy contribute to the ways in which gender-based violence is—and is not—addressed around the world. Each piece addresses the complicated challenge of gender-based violence and the successes and failures of various public policy responses globally, and offers recommendations for a path forward.

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*Photo Credit: Honduran women fleeing poverty and gang violence, at a stopover point in Oaxaca, Mexico, en route to the U.S.: Vic Hinterlang, Shutterstock, November 2018*

# No Justice: Gender-Based Violence and Migration in Central America

Natalie Gonnella-Platts, Jenny Villatoro, and Laura Collins



## INTRODUCTION

Violence against women and girls is often excluded from conversations on the nexus of Central American migration, regional development, and domestic immigration reform. Over the last half-century, topics such as economic empowerment, democracy, transparency, and security have dominated the root-causes conversation.

The aim of these investments is to improve the overall stability and well-being of countries and communities in the region, but their effectiveness is limited by a failure to consider the impacts of gender-based violence on social and systemwide challenges.

Though there has been increasing focus from US and international influencers on the levels of violence in El Salvador, Guatemala, and Honduras (known as the Northern Triangle) and its impact on migration, an adequate response to the gendered differences in the ways violence is perpetrated remains limited and at times nonexistent.

This needs to change, especially since gender-based violence within the Northern Triangle constitutes a daily threat to women and girls—one that has been significantly worsened by corruption, weak institutions, and a culture of impunity toward perpetrators. At individual and community levels, gender-based violence drives women and girls to internal displacement, migration to the United States, or a somber

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**“Violence in all three Northern Triangle countries is high, although women and girls face a ‘continuum of violence’ that affects all areas of their lives and is distinctly gendered.”**

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third path—death either by femicide or suicide. At national levels, it seriously inhibits security, opportunity, and development.

As circumstances at the southern border of the United States demonstrate, gender-based violence has a direct influence on migration flows across the region and is deeply tangled with cyclical challenges of inequity and poverty. For those who choose to seek assistance or flee their communities, high rates of revictimization and bias further obstruct access to justice and safety.

Until policies and programs respond to the serious violations of agency and human rights perpetuated against women and girls (and within systems and society at large), instability in and migration from the Northern Triangle only stand to grow.

As the United States and the international community consider a comprehensive plan on Central America and immigration reform, proposed strategies must anchor the status and safety of women and girls at the center of solutions.

## WHY THIS MATTERS NOW: THE SILENT PANDEMIC

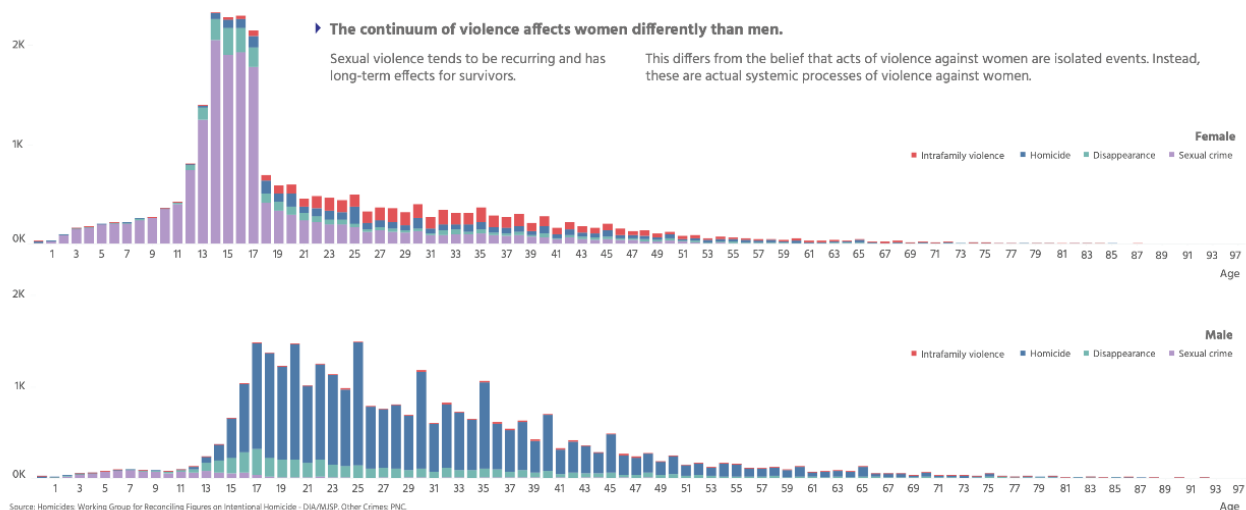
Gender-based violence is one of the most widespread and egregious human rights violations in the world. The United Nations defines gender-based violence as any act “that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women and girls, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”<sup>1</sup>

Plainly put, gender-based violence is any harmful act against a person because of their gender. This

## THE CONTINUUM OF VIOLENCE

This refers to an inertia and continuity of violence in the lives of women, in which there seems to be a continuum in their histories where the norm and the constant is violence directed at them, always and everywhere.

Source: UNDP and USAID, 2016.



Technical Table for Conciliation on Homicides and Femicides Figures DIA-MJSP and PNC. From: "Violence against Women, El Salvador 2020," Infosegura, June 18, 2021.<sup>4</sup>

includes obvious behaviors such as harassment and sexual assault as well as lesser-known examples such as economic abuse (controlling a person's access to money and/or resources to keep them financially dependent on their abuser) and coercion.

Violence in all three Northern Triangle countries is high, although women and girls face a "continuum of violence" that affects all areas of their lives and is distinctly gendered.

For women and girls, toxic masculinity, machismo, gender inequality, and ineffective justice systems reinforce cyclical violence across all levels of society. From harassment and economic abuse to sexual assault and femicide, every point within this continuum undermines a victim's agency and well-being, as well as the stability and prosperity of her community.

While men in the region are at a higher risk of violent death, the continuum of abuse perpetrated against women is most often driven by sexual, intrafamily, and domestic violence. Additionally, women

and girls are habitually viewed as property by gangs<sup>2</sup> and can be targeted for torture, rape, and murder as a way to get revenge on rival members.<sup>3</sup>

Of the 25 most dangerous places in the world for women, 10 are in the Western Hemisphere, with Central American countries Honduras and El Salvador near the top of the list, at numbers two and four respectively.<sup>5</sup>

Young women and adolescent girls face the most serious threat of violence. For example, while the risk of murder exists throughout a woman's life, women of reproductive age face a significant risk of violent death, according to an analysis on the incidence of the crimes by Infosegura, which does data collection and analysis work on Central American citizen-security issues for the United Nations Development Program (UNDP) and the US Agency for International Development (USAID).

Honduras and El Salvador had Latin America's highest rates of femicide—the targeted killing of women and girls based on sex and gender—in 2019. And in





*Photo Credit: A Guatemalan mother with her child in Guazacapán, Guatemala: Kyle M. Price, Shutterstock, November 2018*

2020, an average of 11 women were murdered each month in El Salvador, with half of them under the age of 31.<sup>6</sup>

In Guatemala, teenage girls face a substantial risk of being “disappeared,” with 8 out of every 10,000 girls between the ages of 15 and 17 reported missing each year.<sup>7</sup>

Though the prevalence of early and forced marriage is often overlooked in the region (compared with other parts of the world), survey data from UNICEF reveals that Central American countries—including the Northern Triangle nations—have early marriage rates above both the global and regional averages. In Honduras and Guatemala, around one in three women between the ages of 20 and 24 indicated that they were in a marriage or informal union before the age of 18. The rate of early marriage is only slightly better in El Salvador, at one in four women.

Concerning perceptions about the status of women and male entitlement also persist, according to 2018 data from Oxfam that included Honduras, Guatemala, and El Salvador among its Latin American sample. Three-quarters of young people surveyed stated that their male friends believe harassment of women is normal, while a significant majority also said that their male friends monitor their female partners’ phones and social media.<sup>8</sup>

El Salvador: A sexual crime was reported every four hours on average in 2020, and 48.5 percent of victims were 14 years old or younger<sup>9</sup>—although the true number of victims is likely higher, as reporting rates are low (6 percent).<sup>10</sup> A 2017 national survey found that 34 percent of women reported being a victim of violence within the last 12 months, 4 out of 10 women suffered sexual violence throughout their lives, and 1 in 10 said she had been a victim of sexual violence in the last 12 months.<sup>11</sup> Femicides reached a high of 16.8 per 100,000 in 2016. To put that number in perspective, that same year,

the total homicide rate for the United States was 5 per 100,000.<sup>12</sup>

Honduras: Honduras has the second-highest rate of femicide in Latin America.<sup>13</sup> In 2020, there were at least seven sexual crimes reported each day, 54 percent of victims were under the age of 15, and 76 percent were under 20.<sup>14</sup> Femicides in Honduras are 50 percent higher than the Latin American average and more than triple the global average.<sup>15</sup> One-third of all femicides occurred in the home, up 600 percent from 2013. Honduras does not have a suicide-femicide law, but data show that female suicides start younger (6 to 9 years old) and occur more frequently than male suicides, up to the age of 14.<sup>16</sup>

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### **“State-sanctioned and state-accepted gendered violence may have contributed to a culture that tolerates violence against women.”**

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Guatemala: In Guatemala, about 8 of every 1,000 women and girls were the victim of violence in 2020. Thirty women were murdered on average each month last year, or almost one per day, the lowest rate in the last 10 years. Reported rape cases averaged 14 per day.<sup>17</sup> One of the most extreme and recognizable forms of gender-based violence is sex slavery. According to a report by the International Commission against Impunity in Guatemala (CICIG) and UNICEF: “A combination of gangs, crime families, and drug trafficking organizations run sex trafficking rings in Guatemala that may involve some 48,500 victims.”<sup>18</sup>

Women in Indigenous and rural communities may have it even worse. For example, Indigenous women in Guatemala face multiple layers of discrimina-

tion, including a history of repression and genocide.

During the genocidal Guatemalan civil war that lasted from 1960 to 1996, state sanctioned mass rape during massacres was used to repress the Indigenous populations—with offenses committed publicly and bodies often left on display with the intent to instill terror in the Mayan communities.<sup>19</sup> Truth commissions state that more than 100,000 Indigenous women were raped and forced into sex slavery.<sup>20</sup>

State-sanctioned and state-accepted gendered violence may have contributed to a culture that tolerates violence against women. Guatemalans were the most accepting of gender-based violence in a 2014 survey of Latin American countries by Vanderbilt University, while El Salvador came in second.<sup>21</sup>

Unfortunately, the COVID-19 pandemic has further exacerbated the risk of violence to women and girls in the Northern Triangle, as it has in every region of the world. Exploited by gangs and others, lockdowns have forced those most at risk for violence to shelter in proximity to their abusers. All three countries within the region have reported sizable increases in intrafamily violence since the start of the pandemic. El Salvador has also seen a notable increase in intrafamily femicide.

### *The Role of Rights and Systems*

Access to, and effectiveness and transparency of, social services and justice systems have considerable influence on the status and well-being of women and girls around the world. Sadly, the Northern Triangle provides one of the most poignant examples of what happens when justice and infrastructure remain out of reach or repeatedly fail.



*Photo credit: A Central American asylum seeker boards a bus with her son in La Joya, Texas, that's headed to a border patrol station: Vic Hinterlang, Shutterstock, May 2021*

El Salvador, Guatemala, and Honduras all have statutes that outline protections and support for women and girls impacted by violence. However, lack of enforcement, corruption, and serious resource challenges regularly undermine access to justice for women within the region, reinforcing a cycle of inequity and gender-based violence.

Despite having the highest rate of violence outside a war zone,<sup>22</sup> pockets of the elite within the region are safe—primarily due to their ability to pay for private security.<sup>23</sup> This means that access to safety is directly related to wealth.

Regional impunity rates are high overall, and 95 percent of crimes against women and girls in all three countries go unpunished,<sup>24</sup> bolstering fear of reporting and retribution, the normalization of gender-based violence, and lack of trust in authorities.<sup>25</sup>

Rape, domestic violence, and sexual harassment are all illegal under Salvadoran law and punishable by 6 to 10 years in prison, 1 to 3 years in prison, and 5 to 8 years in prison, respectively.<sup>26</sup> Spousal rape is criminalized, but at the discretion of the presiding judge. El Salvador is also the only country in the world where there is a law against femicide-suicide: the crime of driving a girl or woman to suicide by abusing her.<sup>27</sup>

Honduras criminalizes acts of gender-based violence such as domestic abuse, sexual assault, and femicide. But the criminal justice system does not adequately punish perpetrators, leaving many victims to try to pursue justice under the Honduran Civil Code's Law Against Domestic Violence. The civil penalties are paltry—a mere one to three months of community service. Monetary damages are awarded only on the basis of economic harm.



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**“The lack of enforcement and access to justice for women and girls across the Northern Triangle has direct implications for the asylum crisis along the southern border of the United States.”**

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Like other countries in the region, Guatemala is a signatory of various international treaties focused on preventing and responding to gender-based violence. Additionally, both the 2008 Law Against Femicide and the Guatemalan Criminal Code criminalize gender-motivated violence, including psychological, economic, and physical abuse. The 2008 law specifically sets defined mandates for punishments for gender-based violence, including a 25- to 50-year sentence (without the possibility of early release) for those convicted of femicide.

But regardless of the scope of these and other laws, none of the prohibited crimes against women and girls are effectively enforced.

For example, even though El Salvador and Honduras have joined other countries across the region in moving forward strict legislation prohibiting the practice of early marriage, enforcement challenges, gang violence, and harmful social norms have limited progress in protecting young women and adolescent girls.

More than two-thirds of Salvadoran women have experienced violence in their lifetime, but only 6 percent reported the crimes against them, a 2017 national survey found.<sup>28</sup> Suicide among women and girls is on the rise in El Salvador, accounting for 57 percent of the deaths of girls between 10 and 19,

and it's the fourth leading cause of death among women ages 20 to 49. Unfortunately, since the inception of the femicide-suicide law in 2012, only 60 cases have been investigated, and only one has made it to court. Even more concerning, none have resulted in a conviction.<sup>29</sup>

In Honduras, which has one of the highest rates of femicide in the world, no charges are brought or convictions secured in about 95 percent of cases.<sup>30</sup> Moreover, punishments are limited because most cases of gender-based violence are adjudicated under the Honduras Civil Codes Law Against Domestic Violence.

In Guatemala, resource gaps, limited response from law enforcement, and the commutability of sentences render justice and safety out of reach for many women, regardless of advancements in legislation to protect them. The United Nations estimated in 2018 that 83 percent of crimes against women in Guatemala go unpunished.<sup>31</sup> Additionally, the country currently doesn't have any laws prohibiting sexual harassment.

The lack of enforcement and access to justice for women and girls across the Northern Triangle has direct implications for the asylum crisis along the southern border of the United States. About 60 percent of female Central American asylum seekers who responded to a 2015 United Nations survey said that they had reported incidents to the police, but none had received adequate protection—or, in some cases, any protection at all.<sup>32</sup>

Machismo and gender bias also directly influence both judicial and civic institutions, causing further trauma for survivors. Ineffective coordination between agencies, law enforcement, and legal institutions—and their lack of informed policies when



*Photo Credit: Indigenous Kaqchikel family members gather in a bride's home to ask for her hand in marriage, in Chimaltenango, Guatemala: Byron Ortiz, Shutterstock, November 2011*

dealing with gender-based violence—worsens discrimination and the stigmatization of victims when crimes are reported.

Women and girls targeted by gangs are often discriminated against within the justice system, with law enforcement, prosecutors, and judges frequently believing that the women's abuse was attributed to gang affiliation. This results in poor investigations and classification of women's deaths as due to a "gang conflict" rather than femicide.<sup>33</sup>

Perhaps most concerning, many survivors of gender-based violence report being assaulted or revictimized by the people who were supposed to help them. For example, approximately 12 percent of sexual violence cases reported to the Salvadoran Organization of Women for Peace were perpetrated by "judges, prosecutors, lawyers, and police officers."<sup>34</sup>

This gender bias and social stigma carries over into other institutions, such as education and health. Adolescent mothers are often kicked out of school for being a "bad influence" on other students, and gender-based violence survivors have reported being denied medical assistance.<sup>35</sup>

Coupled with the trauma already experienced by survivors, each of these factors contributes to a lack of trust in institutions, high levels of impunity for perpetrators, and a vicious cycle of repeat violence against women and girls.

Faced with this dire reality, women and girls often have three choices: (1) report and face disbelief, (2) stay and risk additional violence, or (3) flee.

## THE INFLUENCE OF GENDER-BASED VIOLENCE ON MIGRATION

The reasons people migrate from the Northern Triangle are complex, based on a variety of interconnected factors. Some of the most obvious are poverty, instability, and corruption in their home countries, as well as impunity for violent offenders—a confluence of negatives that results in “push factors.” There are also more nuanced drivers that help create an environment people either choose to leave or are forced to leave. These include low educational attainment, the influence of remittances, and family reunification.

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**“Gender-based violence affects entire communities where it occurs, increasing the overall sense of instability and vulnerability.”**

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While many of these push factors have been present for years, the demographics of arrivals at the southwestern border of the United States are shifting.<sup>36</sup> As more women and children seek refuge from violence and inequity, it’s clear that one driver is having an outsized impact: gender-based violence.

For example, women in El Salvador were more likely than men to say that they intended to migrate because they felt they would be victims of crimes against their person (rather than against their property).<sup>37</sup> The number of women crossing the southern border tripled between 2018 and 2019.<sup>38</sup>

Violence, and gender-based violence specifically, contribute significantly to overall instability in the

Northern Triangle. Gender-based violence lowers educational attainment and labor market participation, reduces gross domestic product (GDP), and leads to higher levels of internal displacement,<sup>39</sup> poorer health outcomes, higher maternal and infant mortality rates,<sup>40</sup> and worse development outcomes for children.<sup>41</sup>

A 2016–2017 study by Vanderbilt University found that both men and women expressed a higher intention to emigrate if they lived in neighborhoods where there had been attacks on women. Gender-based violence affects entire communities where it occurs, increasing the overall sense of instability and vulnerability.<sup>42</sup>

Before reaching the southern border of the United States, many individuals and families are internally displaced, looking for safer areas in their own countries.<sup>43</sup> Many people are internally displaced multiple times before ultimately fleeing to another country.<sup>44</sup> Unfortunately, due to the ties that exist between wealth and security, many of them only have access to areas with equal or worse security concerns.<sup>45</sup>

There are more than 1.4 million people internally displaced in the Northern Triangle, according to the International Rescue Committee. Most of those internally displaced in Honduras between 2004 and 2018 cited violence as the reason, with most displacements occurring from one department (state) to another.<sup>46</sup> High internal displacement is both emblematic of, and a contributor to, instability, which ultimately drives out migration.





Photo Credit: Indigenous Guatemalan mother and daughter walking in a rural village in Guatemala: Omri Eliyahu, Shutterstock, April 2019

### Revictimization

A significant number of women and girls experience further victimization in their migration journey, on top of the personal security concerns they already faced in their home communities. Whether seeking security elsewhere in the region or making the arduous journey to the US border, kidnapping, coercion, sexual violence, and human trafficking are serious realities faced by female migrants already fleeing violence.

“The vast majority of victims of sexual violence in the context of migration are women and girls,” according to a 2021 analysis from the United Nations Office of Drugs and Crime.<sup>47</sup> Most of these cases go unreported.<sup>48</sup> But the information that does exist—from law enforcement agencies, immigrant advocates, and migrant women themselves—reflects a highly concerning pattern of revictimization and abuse.

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**“The fact that many women face further risk of abuse within the United States is often overlooked, even as some attention has focused on the experiences of migrant women during their journey north.”**

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Migrants traveling through Mexico are vulnerable to smugglers (coyotes), gangs, cartels, and police.<sup>49</sup> More than 60 percent of migrants were exposed to a violent situation in the two years before leaving their home countries, according to a new report from Doctors Without Borders, which operates a number of health care posts in Mexico that offer services to migrants. Among migrants traveling with children, that number jumps to 76 percent. One-third of all migrants were internally displaced before making the journey north, and close to 58 percent

were exposed to additional violence along the route.<sup>50</sup> Unfortunately, gender disaggregated data is not available for comparison, a challenge that further hinders effective and targeted solutions.

Between 60 and 80 percent of female migrants are raped as they travel through Mexico, according to a study by Amnesty International.<sup>51</sup> When preparing to migrate, many females get a contraceptive shot, knowing they face a high likelihood of assault during the journey.<sup>52</sup> “Sexual violence is an unfortunate common feature of all smuggling routes,” a study by the United Nations Office on Drugs and Crime found, and sexual violence is used to “pay” for passage (transactional rape) or “perpetrated for no purpose other than a demonstration of power, misogyny, racism, or sexual gratification.”<sup>53</sup> Mexico must also take steps to protect migrants within its borders.

The fact that many women face further risk of abuse within the United States is often overlooked, even as some attention has focused on the experiences of migrant women during their journey north. Again, data gaps and fear of reporting remain challenges to understanding the full scope of revictimization, but testimonies increasingly describe an abhorrent pattern of gender-based violence perpetrated against female migrants within American border cities and beyond.

Women and girls undertake this risky journey with no guarantee of legal protection in the United States. But they come because the horrors they face at home are so much worse.

It’s important to remember that seeking asylum is often the only legal means that migrants who qualify have of entering the United States. Although requesting asylum is legal, the path to asylum is not

safe. An understanding of legal rights and access to services—including health, trauma, and legal support—also remain out of reach for many female migrants, furthering cycles of exploitation.

Current US refugee and asylum law does not recognize gender-based violence as its own category warranting protection. According to the American Bar Association, US protections for victims of gender-based violence are built upon 20 years of advocacy and sometimes favorable legal opinions.<sup>54</sup> These protections are tenuous, with any presidential administration able to roll back the decisions made under its predecessor. Attorney General Merrick Garland recently reinstated prior precedent for gender-based violence asylum requests and announced that the Department of Justice would pursue a formal rule.<sup>55</sup> But even this could be reversed in the future.

Until legislation enshrines gender-based violence as a condition warranting humanitarian protection, the United States will continue to turn away women and girls who merit refuge.

## **THE BROADER IMPACT OF GENDER-BASED VIOLENCE ON REGIONAL STABILITY AND PROSPERITY**

Gender-based violence is estimated to cost some countries around the world as much as 3.7 percent of GDP—a total “more than double what most governments spend on education,” according to global data from the World Bank.<sup>56</sup>

Simply put: A country cannot succeed when half of its population is undervalued, unprotected, and denied agency to decide and act upon their choices.

High levels of gender inequity and violence seriously inhibit opportunity, disincentivize investment, and ultimately stunt economic development.

How can anyone be expected to thrive when her day-to-day priority is simply to survive?

The realities facing women and children across the Northern Triangle are complex and acutely impacted by intersecting issues. Policy structures and legal systems, access to services and opportunities, interpersonal relationships, and community, social, and environmental pressures all affect the status and well-being of populations.

Though violence against women and girls as an issue is often viewed within a silo, it is both influenced by and an influence on broader barriers to stability and prosperity across the region.

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From education and employment to health and well-being, the continuum of gender-based violence undercuts opportunities and upward mobility for individuals, communities, and populations at large.

For example, although most countries within Central America have seen significant progress and parity in primary school access and completion rates, the reality is vastly different when it comes to secondary education. While 9 in 10 boys and girls transition to secondary school, completion rates remain low.

Strongly influenced by safety concerns, secondary school attendance rates have only reached 44 percent in Guatemala, 47 percent in Honduras, and 60 percent in El Salvador. These equate to some of the lowest rates of adolescent school attendance across Latin America. Upper secondary school completion rates are even more concerning at 25 percent, 25 percent, and 36 percent for females in Guatemala, Honduras, and El Salvador, respectively.<sup>57</sup> And when it comes to migration specifically, around 70 percent of all migrants from the Northern Triangle claim to have received little to no education beyond primary curriculum.

Additionally, with one of the highest estimated adolescent fertility rates in the region, the prevalence of coercion, early unions, and sexual abuse significantly impact the ability of adolescent girls and young women to remain in school. For example, 22 percent of Salvadoran teenagers between the ages of 15 and 19 who dropped out of school became mothers soon after. Guatemala specifically suffers from a high teenage fertility rate (20 percent), with more than 104,000 births to girls 19 and under in 2020, including almost 5,000 to mothers between the ages of 10 and 14.<sup>58</sup> The true number of births to girls under 14 is unknown, however: In response to a 2012 law that mandates that hospitals report under-14 births, families have the girls deliver at home to protect the perpetrator. For girls under 14, 25 percent of reported rape cases involve the girl's father, while 89 percent involve a family member or someone known to the family.<sup>59</sup> While high in all three countries, Honduras has the highest rate of child marriage at 34 percent (30 percent in Guatemala, 26 percent in El Salvador).<sup>60</sup> In Honduras, 25 percent of girls become pregnant before turning 18, half of those as a result of rape.<sup>61</sup>



Gaps in educational attainment and high adolescent fertility rates overlaid with unequal gender norms also result in mothers having fewer opportunities to participate in the formal labor market and less economic independence. This includes a higher likelihood of involuntarily becoming primary care-takers and/or working in the informal market with little to no access to social security. This culminates in an increase in the burden of care and unpaid labor.<sup>62</sup> This disparity has broader impacts on both economic growth and workforce participation. The Observatory for Sexual and Reproductive Health in Guatemala estimates that the gap in educational attainment between adolescent mothers and mothers ages 20 to 30 represents a loss of more than \$55 million dollars annually. Women face more limited options for employment than their male counterparts, “although women have achieved the same (or higher) educational levels as men in many countries, women’s employment continues to be concentrated in low-wage, informal-sector jobs.”<sup>63</sup>

## RECOMMENDATIONS

In seeking to implement effective and sustainable solutions to bolster peace and prosperity within the Northern Triangle, the following recommendations should be key considerations for policymakers, government institutions, and corporate and nonprofit actors. Though these recommendations were developed in response to the circumstances in the Northern Triangle, rates of gender-based violence across the Western Hemisphere and beyond demonstrate that many also have wider application:

*The governments of El Salvador, Guatemala, and Honduras should strengthen justice systems, enforce rule of law, and create/enhance a continuum of care approach to gender-based violence.*

El Salvador, Guatemala, and Honduras must enforce the rule of law. This includes increasing access to reporting crimes, investigating, and prosecuting crimes (especially where state actors may be involved) and ensuring protection for survivors and witnesses. Enforcing the rule of law means taking all of these steps before gender-based violence reaches the level of sex trafficking or femicide. Harassment, verbal abuse, and other early forms of gender-based violence must receive greater acknowledgement and response.

El Salvador, Guatemala, and Honduras should also work with supporting partners—such as USAID, the International Development Bank, International Justice Mission, and others—to strengthen their justice systems and implement trauma-informed best practices.

Trauma-informed best practices should not start and stop at the justice system. Social service providers, health care professionals, educators, faith-based organizations, survivor shelters, and others should collaborate to provide a continuum of care approach to survivors of gender-based violence. Ultimately, developing a community-wide strategy will help foster trust in institutions and support the cultural and social change needed to prevent gender-based violence from happening in the first place.

*The Mexican and US governments, in partnership with nonprofit organizations, should improve access to legal counsel and trauma support for women and girls fleeing gender-based violence.*

Mexico, as a transit and receiving country, and the United States, as a destination country, should recognize the distinct needs of women and girls that are seeking humanitarian protection and also implement trauma-informed best practices and support for survivors fleeing gender-based violence.

Access to trauma-informed best practices and legal counsel ensures that victim's rights are protected and that those who qualify for asylum are granted it. In many cases, survivors may qualify for alternative forms of humanitarian protection, and access to legal counsel could reduce the asylum case backlog by helping survivors of gender-based violence navigate the complex immigration system and move their cases to other appropriate channels.

*Governments, corporations, and nongovernmental organizations (NGOs) should prioritize gender disaggregated data collection.*

The lack of gender disaggregated data creates critical knowledge gaps that can impede stakeholders' ability to support or implement strategies that effectively improve their respective issue-areas. Effective policy, at any level, cannot be made in a data vacuum.

For example, US Customs and Border Protection has limited disaggregated data collection on border apprehensions or asylum requests by gender. An

increased collection and dissemination of this data and other metrics can provide NGOs, policymakers, and officials with a more complete picture of what is happening on the southwestern border of the United States and the effectiveness of current policies in place.<sup>64</sup>

Collaboration on security and humanitarian initiatives by the United States, Mexico, El Salvador, Guatemala, and Honduras should include gender disaggregation of data they collect, as well as sharing of that data and analysis. A key component of this should focus on gender-based violence within the Northern Triangle and the experiences of migrant women. Accurate and updated data on the status and experiences of female migrants and survivors of violence remains woefully sparse, even more so among Indigenous, rural, and extremely poor communities. Moreover, data tracking the effectiveness and expediency of justice systems across the region also remain limited. Both policy and innovation can play a significant role in tackling these challenges.

NGOs have made notable inroads on original data collection and the combining of disparate official data sources to shine a light on gender-based violence. Infosegura, for example, is executed by the UNDP's Regional Bureau for Latin America and the Caribbean and is funded by USAID. The result is invaluable data in seven countries (including the Northern Triangle countries) that provide local and international stakeholders with critical information on incidences of gender-based violence. The International Rescue Committee has also seen great success in both disseminating information and collecting data via its mobile phone-based application, CuéntaNos.<sup>65</sup>

The private sector also has a role to play in funding these initiatives. Companies should provide technical and capacity-building support around digital initiatives as part of their social corporate responsibility programs and disaggregate and analyze their own internal data on the status and success of women on their staff. Innovation is a key driver of private sector success, and companies are well positioned to innovate around how they can best support their workforce and communities. For example, Applaudo Studios, a tech and software development company based in El Salvador, not only has specific training initiatives for women but also boasts that 45 percent of its leadership is female.

Collection and sharing of gender-disaggregated data is simply a necessity if stakeholders are going to positively effect change.

*Governments and the private sector should invest in capacity-building of, partnership with, and direct investment in local organizations and advocates who are leading change.*

Corporate, foundation, and government donors should partner with and meaningfully support local organizations and advocates in the Northern Triangle who are working to prevent gender-based violence, enhance community response efforts, and aid survivors.

Systemic and social change will take effort and investment from all members of society and at both macro and micro levels. Foreign aid on behalf of the United States should include capacity-building and partnership with the organizations and advocates that are leading change. Collaboration across sectors (such as information and communication

technologies, health, and education) and countries (El Salvador, Guatemala, Honduras, Mexico, and the United States) should be a component of any gender strategy.

*Public and private sector stakeholders must meaningfully engage with local communities, including men and boys, on gender equity to challenge and uproot antiquated and harmful social norms.*

In seeking to ensure sustainable progress in addressing gender-based violence, any investments in gender equality must incorporate targeted engagement with men and boys. Direct outreach to males opens channels of communication and understanding. It also enhances advocacy and the success of interventions through the key influence of allyship. This is particularly true when seeking to build affinity for the status and well-being of all members of society. And dismantling harmful gender norms and their acceptance within society is a critical step. Though greater resources are significantly needed in this area, organizations and influencers like Promundo and the Spouses of CARICOM Leaders Action Network have demonstrated and replicated impactful efforts focused on male allyship in the fight to eradicate gender-based violence.

*Governments and private sector institutions should support advocacy efforts that inform women and girls of their rights and agency.*

Despite their significant influence on their families, communities, and countries, many women in Central America are unaware of their individual rights as defined and protected by the law. This disconnect is especially acute in rural and Indigenous



regions. From mobile phone applications to radio broadcasts, advocacy and awareness campaigns that meet women and girls where they are can go a long way in building recognition of their agency and challenging patriarchy. International corporations that have had success in supporting knowledge and capacity-building around labor rights should explore ways in which these innovations can be adapted and expanded to include an emphasis on gender rights within the communities where they engage.

*The US government and other international partners should leverage existing infrastructure and initiatives to include gender metrics and goals.*

There are many initiatives implemented by international organizations and foreign and domestic governments. Many of these rightly focus on addressing root causes of migration, economic development, climate resiliency, and more. Stakeholders should evaluate their programs to see where gendered metrics and goals can be incorporated and where existing infrastructure and “wins” can be leveraged, enhanced, and replicated.

Creative and collaborative thinking here is welcomed. For example, each country has a strategy for implementing digitization—which could help reduce gender-based violence by increasing access to reporting and services, as well as information about rights, and could contribute to the implementation and efficient execution of best practices on the part of the provider. Domestic governments already have partnerships with international organizations, such as the Inter-American Development Bank, and US-based foreign assistance through USAID, to help reach their digitization goals. These partnerships should incorporate gender-advocacy groups that can

lend their expertise on how to best leverage digital technologies to reduce instances of gender-based violence.

## CONCLUSION

The Northern Triangle, Mexico, and the United States are at a crossroads. El Salvador, Guatemala, and Honduras can either take advantage of a young population of prime working age by promoting policies that create a safe, stable environment where women and girls can fully participate, or they can continue on a path that is leading to substantial levels of gender-based violence, instability, migration, and economic stagnation.

As research continuously demonstrates, when empowered, active, and engaged, women and girls are a critical catalyst for security and prosperity. Countries with higher levels of gender equity are more peaceful and stable overall.<sup>66</sup> Gender equality can provide better outcomes for children, increased labor productivity, lower poverty rates, and reduced levels of violence.<sup>67</sup>

In seeking to secure a brighter future across the Western Hemisphere, immigration and development policies must include solutions to address gender inequity and gender-based violence. As current circumstances at the southern border of the United States demonstrate, stability and prosperity are not possible without them.

## ABOUT THE AUTHORS

**Natalie Gonnella-Platts serves as the director of the Women's Initiative at the George W. Bush Institute. Laura Collins serves as director, George W. Bush Institute-SMU Economic Growth Initiative. Jenny Villatoro is currently an associate for the George W. Bush Institute-SMU Economic Growth Initiative.**

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*Photo credit: Women take to the streets to demand rights for themselves at the beginning of the Arab Spring in Cairo, Egypt: Rosen Ivanov Iliev, Shutterstock, March 2011*

# Criminalization of Gender-Based Violence: A Legal Obligation

Moushira Khattab

## INTRODUCTION

After submitting my first draft to the editor of this publication, three significant developments took place in Egypt, the potential impact of which pushed me to revisit the entire chapter. Gender-based violence (GBV) is a global pandemic that affects one in three women in their lifetime. In the Middle East and North Africa (MENA) region, violence against women (VAW) is referred to as a silent cancer that often goes undetected and unreported. Society in this region is becoming more aware of the epidemic, yet it is still not gender-sensitive to its causes or implications. GBV is a stigma that leaves its marks on the victims for years if not a lifetime.<sup>1</sup> Despite decades of effort by stakeholders including women's organizations, United Nations organs, civil society organizations, and the donor community, GBV in MENA remains perilous. The cultural setup condones impunity for some forms of domestic violence, even when it leads to premeditated murder, as in the case of female genital mutilation (FGM). COVID-19 highlighted the weaknesses inherent in many of the institutions that we have been socialized to take for granted. Institutions such as education and health-care systems, in addition to social protection schemes, stood the test of time up until 2020. By that same token, COVID-19 shattered fledgling institutions in the MENA region, including institutions such as those that make laws criminalizing GBV.

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**“Previous gains must be won back and used to trample obstacles that stand in the way of stopping GBV dead in its tracks.”**

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The COVID-19 pandemic, which spread worldwide in early in 2020, heightened the already grave

risks widely faced by women across the MENA region. Women's rights organizations, helplines, and shelters for survivors of domestic violence in some MENA countries reported an increase in calls for support or recorded a rise in cases of GBV. In Algeria, at least 39 cases of murder or “intentional assault and battery” resulting in death were recorded by the Centre of Information on the Rights of Women and Children during the COVID-19 lockdown, with women's rights groups warning that the true number of cases was likely to be higher.<sup>2</sup> At the height of the COVID-19 pandemic, the challenges facing women in Egypt increased. For example, many women had to take on a new role as the family doctor.<sup>3</sup> Incidences of violence against children and harmful practices increased in the villages of Upper Egypt as well.

As the world begins to emerge from the darkness that enveloped most of 2020 and 2021, priority must be given to recovering the lost ground in the fight against GBV. Previous gains must be won back and used to trample obstacles that stand in the way of stopping GBV dead in its tracks. Victims must be availed the opportunity to report and pursue justice without fearing discrimination (social or legal, under the charge of adultery), governments must act against impunity, and above all governments must openly condemn GBV.

Amid the gloom brought on by the pandemic, rays of hope emerged to turn the challenge into an opportunity. In an unprecedented move, Shubra Criminal Court in Cairo sentenced a father and a nurse (tried in absentia) to three and 10 years in prison respectively, for the crime of FGM. This is the first case to be handled by the criminal court since the criminal code was revised to harshen the penalty for FGM, turning it from a misdemeanor to a felony offense. This development became even more significant as Egypt launched its first ever National





*Photo credit: A traditionally dressed Egyptian woman walks by a mosque in Cairo, Egypt: Nattyflo, Shutterstock, February 2020*

Strategy for Human Rights on September 11, 2021. The strategy includes: (1) civil and political rights, (2) economic, social, and cultural rights and, interestingly, (3) human rights of women and the vulnerable. Though human rights experts may question such classification, it is a testament to the unprecedented gains and the strength of national awareness in support of women's rights. Two days later, on September 13, Egypt launched its human development report, again in the presence of President Sisi. The report, which comes after a 10-year pause, puts heavy emphasis on the evolving gains of women.

To me, such developments promise a paradigm shift and a quantum leap toward meeting international standards of human rights. On October 4, the Parliament of Egypt elected me to serve as the first female president of the National Council for Human Rights. While I recognize that it will not be smooth sailing, I am honored to fill a place once occupied by my mentor, Dr. Boutros Boutros-Ghali, former

secretary general of the United Nations (UN). I can comfortably say that Egypt is indeed turning over a new leaf.

## THE UNITED NATIONS RESPONDS

The UN was established with two overarching objectives: to maintain international peace and security and to foster friendly relations among nations based on respect for the principle of equal rights and self-determination for peoples. To achieve its objectives, the UN cooperates with various stakeholders in addressing international economic, social, cultural, and humanitarian crises, and aims for human rights and fundamental freedoms to be at the center of its global efforts.<sup>4</sup>

Throughout the 76 years of its existence, the UN has been praised as much as it has been criticized. Most recently, its mishandling of the COVID-19 pan-





*Photo credit: A woman attends a lecture about media's representation of women in Cairo, Egypt: Touqa Essam, Shutterstock, February 2018*

demic exposed the fragility of international peace and security. While the secretary general of the UN and the UN's World Food Programme rose to the challenge, the United Nations Security Council (UNSC) proved inept at dealing with the crisis. The ongoing spread of the pandemic will exacerbate patterns of global inequality, potentially causing instability and armed conflicts. In the event of a recession, or worse, a depression, the structural inequalities inherent in systems of development aid, humanitarian assistance, and the global political economy will increasingly present a challenge for the Global South.

The confusion and disappointment that stemmed from the UNSC's failures should not overshadow the more valuable assets of multilateralism. The UN human rights system overall is a flagship and full-fledged success story. Although in certain parts of the developing world, especially the MENA region, respect for universal human rights is not yet within

reach, it has become a powerful political tool around the world.

In 2020, as the world became engulfed in the pandemic and various countries implemented sweeping lockdowns, UN Secretary General António Guterres was the first to globally draw attention to its impact on women. He urged all governments to prioritize the prevention and redressing of violence against women and girls in national response plans to COVID-19. He "appealed for an end to violence everywhere" and cautioned that "violence is not confined to the battlefield. For many women and girls, the threat looms largest where they should be safest. In their own homes."<sup>5</sup> He called for a global ceasefire to focus on the battle of our lives.

Women's rights activists have long encouraged the UN's most powerful organ, the Security Council, to join the battle for women's human rights. UNSC Resolution 1325, which was adopted on October 31,

2000, and sets forth an agenda for women, peace, and security, has provided a strong asset in the fight to end GBV through the rule of law. Resolution 1325 and other ensuing resolutions offer a “common language” and approach for unifying efforts toward ending VAW, and the UN has subsequently provided women’s advocacy groups with international funding. However, the formulation and implementation of National Action Plans by governments have proven difficult. Indeed, 21 years have passed since the adoption of Resolution 1325, and few countries including Egypt have yet to start the process of preparing a National Action Plan.

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### **“To expand the achievements of the UN, countries must adopt a human rights approach to combat GBV.”**

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UNSC Resolution 1820 in 2008 heralded a very important legal development. It is the first Security Council resolution to recognize conflicts related to sexual violence as a tool of war. Depending on the context, it characterizes rape and other forms of sexual violence as war crimes, crimes against humanity, or acts conducive to genocide. It stresses the need for the exclusion of sexual violence crimes from amnesty provisions in the context of conflict resolution processes, and it calls upon UN member states to comply with their obligations for prosecuting persons responsible for such acts, to ensure access to justice by all victims of sexual violence.

These and other UNSC resolutions raise the bar for women’s rights. MENA countries still have not invested in this asset and must do so. To expand the achievements of the UN, countries must adopt a human rights approach to combat GBV. Mandating

the UNSC resolutions with regard to women’s human rights is a significant stride that member states should not overlook. Rather, they should embrace these resolutions and build upon them. Doing so emphasizes the importance of women’s rights and gives countries an opportunity to meet internationally recognized standards—and, crucially, it lessens the load on governments currently grappling with the global pandemic and other regional crises and conflicts. Actions that stem from the UNSC resolutions will assist states in including the prevention of VAW in their COVID-19 national response plans and encourage a global coalition to enact sweeping, robust change.

The way forward on eliminating VAW has become clearer thanks to the work of UN Human Rights Treaty Bodies as well. Implementation of these measures is an ongoing process, not a onetime action. It calls for the incremental and progressive realization of human rights in their entirety. Solutions to complex and multifaceted challenges such as GBV take time to enact and go beyond merely passing laws. Success lies in building awareness and enforcing laws, data collection, capacity-building, resource allocation, cooperation with civil society, and monitoring and evaluation of mandates.

### **FEMALE GENITAL MUTILATION IN EGYPT: CASE STUDY IN BEHAVIORAL CHANGE**

Various myths and superstitions have long put forth the idea that FGM makes a girl eligible for marriage, controls her sexual desire, and prevents adultery. Commonly called tahara, which means purification, FGM is falsely associated with good hygiene, cleanliness, and chastity. This context shows the complexity of trying to reverse such a custom. Yet in the



Photo credit: A group of girls attend reading class in Shalateen, Egypt: Tools12, Shutterstock, March 2017

span of five years, I am honored to have led a societal movement to combat FGM. We have succeeded in turning what was a socially accepted habit into a crime punishable by law. An important source of activism came from a grassroots movement that refused the practice and was determined to uproot it, with the media acting as a strategic ally.

Through a rights-based approach, we made it clear that FGM is a violation of females' rights. This was not an easy task in a conservative society riddled with prejudice. To say the least, human rights, let alone women's rights, has been perceived as a foreign agenda. Due to the complexity and sensitivity of this issue in particular, we opted to partner with key stakeholders to pursue a comprehensive strategy of social marketing to encourage social change. To combat FGM, we surveyed the political, economic, cultural, and environmental value systems in Egypt. Through qualitative and quantitative research on the then-prevailing perception of the practice, we

developed messaging that would resonate with our target audience and allow us to achieve long-term behavioral changes.

Our key strategies to combat FGM—and GBV more broadly—focused on the following interventions and tactics:

1. Lump three forms of GBV together: deprivation of education, child marriage, and FGM. Raising girls' education to the top of the agenda was less provocative than addressing FGM in isolation.
2. Create a public consensus against GBV, including FGM and child marriage, by building momentum on the ground and creating a coalition of stakeholders, including the media, civil society, medical practitioners, line ministries, religious leaders, and educational institutions.



3. Enhance the voices of grassroots activists to feature their resentment of FGM and highlight the pledge formulated by village communities to end the practice. Grassroots groups and local communities spoke out according to their own will, declaring publicly their stance against GBV. Villages also created their own manifestoes by signing public declarations against FGM. These declarations provoked the sentiments of surrounding communities, pressuring them to make commitments that uphold the rights of young girls as well. These brave actions on the part of local communities made our quest for a legal framework banning FGM more doable.

4. Design a program through extensive participation on the part of all stakeholders, in order to build on the previous experiences of others and respond effectively to the ongoing debates and myths.

5. Create an environment conducive to change, thus empowering families with girls at risk. The voices afraid of change eventually faded out as more people crept out of the shadows to demonstrate their desire for change.

6. Support the emergence of a youth movement that endorses young people as agents of change. The youth were informed, innovative, and developed advocacy tools that proved to have an effective impact on their peers.

7. Establish a comprehensive media strategy that consisted of informative media campaigns to educate the public. We invested in creating a public dialogue against FGM through all forms of media, including TV, radio, drama, and the internet. The impact of the media can be assessed by looking at the success of the child helpline, where thousands of calls were received requesting additional information and counseling. The helpline provided a tool for monitoring, which guided the entire process.

8. Promoting rights based liberal religious discourse that denounces GBV was also an integral component of our media strategy. The fatwa, or religious edict of the Grand Mufti, and statements by the Coptic Orthodox Church have opened the door for religious leaders to tackle FGM from a human rights perspective. Today, with such clear-cut religious positions against the practice, very few people can say, "We do FGM for God."

9. Incorporate an anti-FGM module within the context of education curricula promoting the rights of female children.

10. Introduce legislation that criminalizes FGM, which became less provocative as the other pillars of our strategy proved successful.

Our campaign lasted for five years, during which a space was created for a wide range of stakeholders. Advocacy around women's rights culminated in June 2008 with the adoption of Egypt's most comprehensive and visionary human rights legislation ever (Law 126/2008). It ensured, at a minimum, the rights that are guaranteed by international treaties Egypt previously ratified. We also raised the minimum age of marriage for girls from 16 to 18, equal to that of boys, and criminalized FGM with fines and the possibility of imprisonment. Women gained the right to pass their nationality to their children, and single mothers were granted the ability to register their children born out of wedlock and were also awarded educational custody of those children. These are all great successes that exceeded our initial hopes. Enlightened men, women, and the media all became integral components of these achievements, developing a sense of ownership and pride.



## THE CHALLENGE REMAINS

Despite the enormous strides made in raising awareness and criminalizing FGM, few cases were brought to the courts and to date not one single court ruling was implemented. As the sentence by Shubra Criminal Court is made in absentia, the judge must impose the maximum penalty provided by the law. It remains to be seen whether it will be enforced or it will be business as usual. Sadly the national hype against the practice faded, after it reached its climax in December 2010 with a declaration by Benban village in Aswan against FGM. The penalty for FGM was harshened two times and has become a hard crime handled by the higher criminal court. This can be a double-edged sword, because the severity of the sentence may discourage the judge from imposing it, and it might prove to be a recipe for killing the law. To me, the pressing challenge is to restore national and local awareness against FGM through the revival of village declarations and activism. This should be complemented by a solid witness protection program, as well as social and psychological counseling for the victims.

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**“The establishment of human rights councils and universal periodic reviews have made women’s rights more visible.”**

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Since the outbreak of the COVID-19 pandemic, emerging data and reports from those on the front lines indicate that GBV has intensified, in an alarming upsurge. It was labeled by UN Women as a shadow pandemic. MENA is no exception, yet scarce data on the impact of lockdowns on women in remains a challenge. Domestic violence happens

in the home, perpetrated by someone the victim knows intimately.

Preexisting challenges, such as regional conflicts and insecurity, also provide a fertile ground for GBV. MENA is plagued by occurrences of armed conflict in Syria, Iraq, Libya, and Yemen. The number of refugees and internally displaced persons now reaches into the millions as people are forced to flee the violence. The Israeli occupation of Arab territories has also taken a toll on the region, giving credence to violent extremism and terrorism. FGM, child marriage, rape, domestic violence, cyberbullying, sexual harassment, and human trafficking occur at greater levels during times of conflict and are largely unreported, due to the victims’ fear of stigmatization and retaliation, inadequate reporting mechanisms, and poor access to the justice system.

To their credit, MENA countries have a decent track record in terms of the ratification of human rights instruments and reporting to Human Rights Treaty Bodies. Moreover, the establishment of human rights councils and universal periodic reviews have made women’s rights more visible. Reservations about human rights conventions, however, remains a barrier. Several MENA countries have expressed concerns on the ground that their national laws, traditions, religion, or culture are not congruent with the positions set forth by Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), although their national constitutions or laws do prohibit discrimination. This exposes an inherent conflict between the provisions of certain states’ constitutions and their leaders’ reservations about the CEDAW. This has led some to believe that there is unresolvable tension between law and religion.

CEDAW has urged most MENA countries to review

and withdraw their reservations to Articles 2 and 16, which are incompatible with the object and purpose of CEDAW. Such reservations are of a general or sweeping nature that may water down the commitment of these states to the entire CEDAW.

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## “For the first time, the president of Egypt is an advocate of women’s rights.”

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### CONCLUSION

Against all odds, women of the MENA region (of whom I am one) are fighters. They have elbowed their way into a place at the decision-making table, and their voices can now be heard louder than ever. The so-called Arab Spring of 2011 was a turning point for women in the region. The women of Tunisia asserted their position as a solid political and cultural power to be reckoned with, and the country now has the first female prime minister in the region. After a rocky start, Egyptian women emerged stronger and louder—and thanks to their perseverance, the political will to uphold women’s rights in Egypt is much stronger. For the first time, the president of Egypt is an advocate of women’s rights. The National Council for Women is stronger than ever in terms of its mandate and its human and financial resources. The last bastions of discrimination in the judiciary have crumbled and women have joined the administrative courts (State Council) and the public prosecutorial bodies.

The fortune of Saudi women is unparalleled. The speed of modernization makes it hard to believe that only a few years ago women in that country weren’t afforded the most basic of rights. Just a few years ago, women in Saudi Arabia didn’t have right to

drive, and today a woman the Saudi ambassador to the United States. The rights of Persian Gulf women in the United Arab Emirates and Bahrain continues to advance at a rapid pace. Even embattled Libya has a female minister of foreign affairs, a smart move that will expedite post-conflict peace-building. MENA women’s list of achievements continues to grow.

However, MENA women’s achievements are still mostly in the public sphere, as they continue to battle to eradicate GBV in the private sphere. Egyptian women are gearing up for a heated battle over a new family law that stands to finally offer women an equal right to divorce. This law, if passed, will see Egyptian women breathe a collective sigh of relief and reinvigorate awareness of GBV. Success in this area is crucial to reversing the damage done by COVID-19 lockdowns, during which more girls than usual were mutilated, trafficked, or faced interruptions to their education. The ramifications of COVID-19 do not stop there: With resources drying up, women will continue to be the first to lose their jobs. And pressure on health care systems will continue to result in unwanted pregnancies, as well as more rape, marital or otherwise. All of this is against a background of renewed energy in the fight to eradicate FGM.

Post-COVID-19 national response plans provide an opportunity for women to build back better. MENA women need to unite and to leverage the fact that they have become a force to be reckoned with, knowing that there is no turning back and that the only way is forward.

## NOTES

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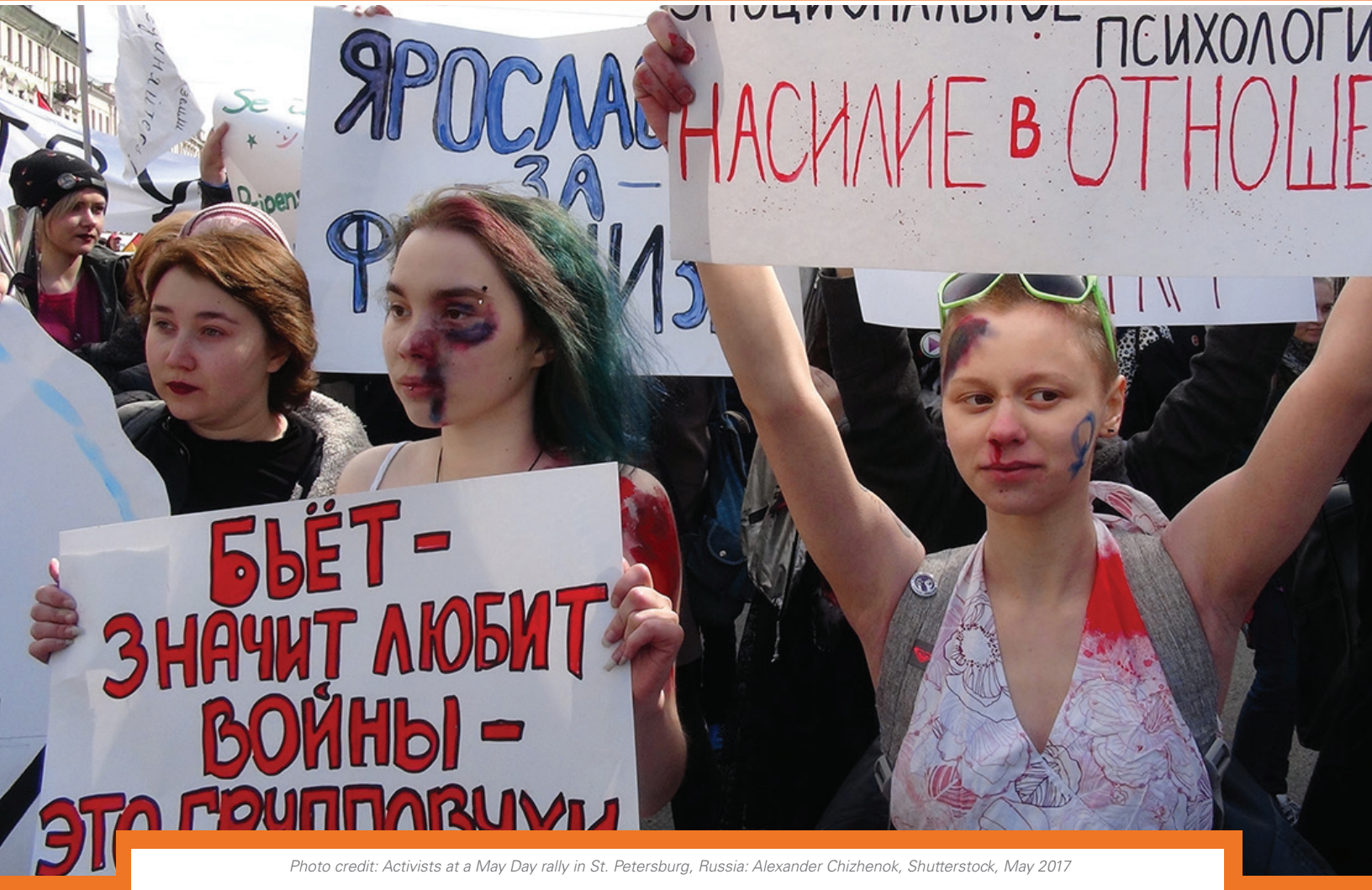


Photo credit: Activists at a May Day rally in St. Petersburg, Russia: Alexander Chizhenok, Shutterstock, May 2017

# Domestic Violence Legislation in Russia: Campaigning for Change

Dr. Marianna Muravyeva



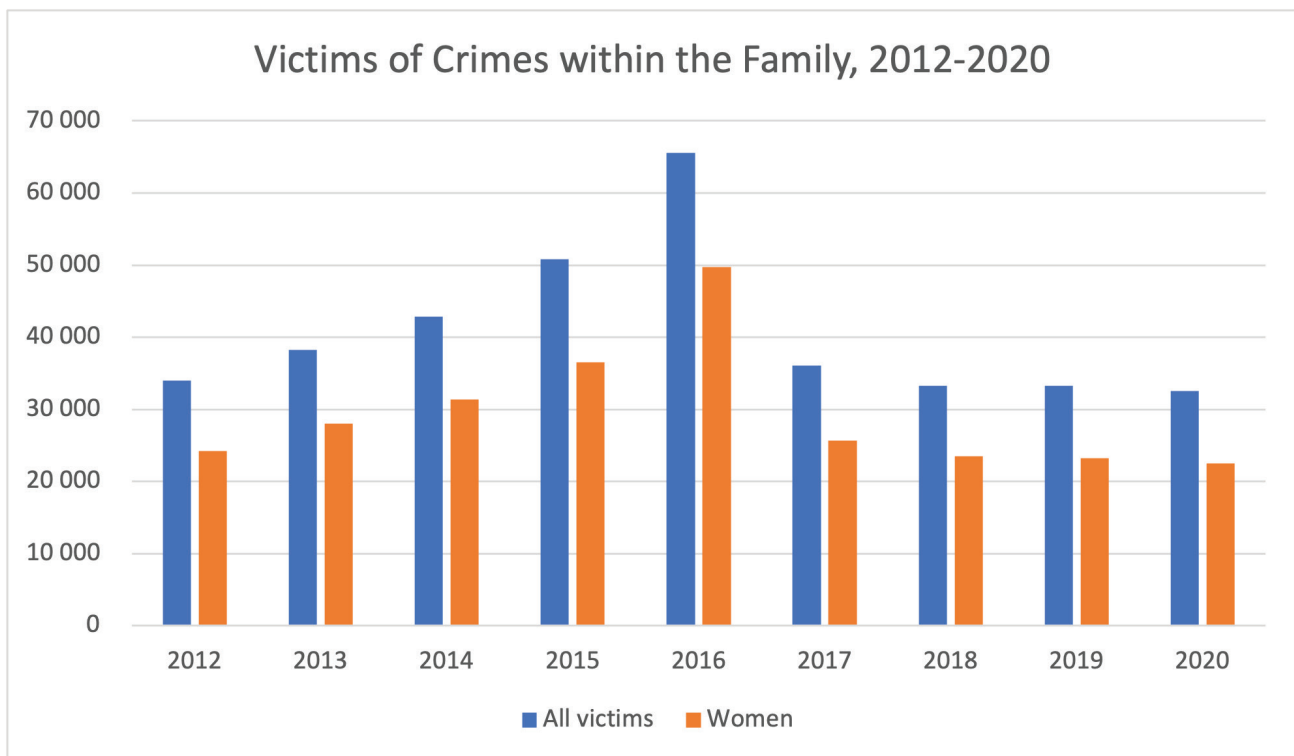
## INTRODUCTION

Violence against women is recognized as one of the main human rights violations against women in Russia by several international organizations, including the latest communications from the Committee on the Elimination of Discrimination against Women (CEDAW) and the European Court of Human Rights.

<sup>1</sup> In its responses to international organizations, Russian representatives continue to insist that “the country has all necessary instruments of administrative and criminal law to protect women from domestic violence and their effectiveness is confirmed by law enforcement practices.”<sup>2</sup> Such statements happen against the background of active domestic campaigns to enact legislation on the prevention of domestic violence, which were the result of active mass media coverage of particularly brutal cases of violence against women and the work of activists campaigning for change.

Following the 2016 Ukrainian-Russian virtual flash mob #IAmNotAfraidToTell

(#янебоюсьсказать/ти), in which thousands of women shared stories of sexual and domestic abuse, other feminist hashtag campaigns such as #ItIsNotAReasonToKill and #IDoNotWantToDie gathered and related a multitude of narratives of domestic violence.<sup>3</sup> The newly created center and information resource Nasiliu.net launched an aggressive information campaign about domestic violence, reporting incidents of women being maimed or killed, which were further reposted by major media outlets. Several especially brutal criminal cases made headlines in all of the major newspapers and online news outlets. Those included the 2017 case of Margarita Gracheva, who had her hands chopped off by her husband due to his jealousy (Gracheva had filed a complaint with the police about his abuse just two weeks prior to the incident),<sup>4</sup> as well as the case of the Khachatourian sisters, who killed their father in 2018 after years of abuse.<sup>5</sup>



Source: ROSSTAT: <https://rosstat.gov.ru/folder/13807>



Photo credit: Women protest at a feminist rally in St. Petersburg, Russia: Farhad Sadykov, Shutterstock, March 2017

Each of these mass media campaigns has revealed so many stories of violence against women in Russia that it has been difficult to ignore.

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## “Domestic violence, including intimate-partner violence, is not officially considered a violation of women’s human rights in Russia.”

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The available statistics also confirm that domestic violence remains a major violation of women’s rights in Russia. In 2012, the Russian Statistical Service (ROSSTAT) started publishing statistics on crimes within the family, which they received from the Ministry of Internal Affairs. The stats in Graph 1 show that around 35,000 incidents are recorded every year, on average, and that in the vast majority of these crimes, women are the victims. Also, the cases spiked in 2016, when a short-lived attempt to

criminalize domestic violence entered the Criminal Code (Article 116), which suggests that domestic violence is highly underreported and clearly attests to the need for explicit criminalization of intimate-partner and domestic violence in Russia.

## POST-SOVIET LEGISLATION ON VIOLENCE AGAINST WOMEN

Domestic violence, including intimate-partner violence, is not officially considered a violation of women’s human rights in Russia. It is rather seen as a social problem, a result of intoxication and poverty, which is a continuation of Soviet criminological and legal research into “family-domestic violence,” a special term widely used by contemporary Russian scholarship and official law.<sup>6</sup> Such an approach is also closely connected with the way women’s movement and gender studies developed in the 1990s and early 2000s in Russia, as well as the



*Photo credit: State Duma deputy Elena Mizulin at a meeting of the interim commission of the Federation Council in Moscow, Russia: Federal Assembly of the Russian Federation, February 2020*

failure to make violence against women central to the women's rights agenda.

During the post-Soviet period, many scholars have noted a resurgence in gender essentialism in Russia, which has been particularly successful in framing public understandings of gender politics.<sup>7</sup> The success of models of gender relations between men and women that underline the “natural” differences between them and their roles in society has in large part been ascribed to the persisting negative legacies of gender inequality from the Soviet period. The supporters of the reform in the late 1980s and the early 1990s in socialist countries represented these changes as normalization, as a return to the “natural order of things, in which gender essentialism and the natural role of mothering have a crucial role.”<sup>8</sup> The opponents of the Soviet gender order interpreted it as a consequence of an abnormal social system.<sup>9</sup> Scholars also note that the contentious and problematic relations of post-Soviet society and

especially women with feminism as an ideology and an academic discipline, did a lot of damage to genuine feminist initiatives in the 1990s.<sup>10</sup> For the new Russian Federation, however, while human rights were declared of the “highest value” (Article 2 of the Constitution), the rights of women did not constitute a priority.

The Criminal Code of 1996 maintained the structure of the Soviet criminal codes in relation to physical assault and sexual violence; that is, it did not include any explicit protection in situations of domestic violence, especially intimate-partner violence. To this day, women (and men) must use more general articles on assault (Articles 109–116), torment (Article 117), kidnapping (Article 121), and rape (Article 131–132) to prosecute their partners and spouses. Articles 127.1 and 127.2 were introduced into the Criminal Code in 2003 prosecute human trafficking and slavery, but without explicit mention of sex trafficking or special protections for female victims.<sup>11</sup>



What this suggests is that the issue of women's rights has continued to be handled using a Soviet understanding and approach to the "woman question." Instead of the Soviet Women's Committee, which provided the infrastructure for women in the Soviet Union, and which later transformed into the Union of Russian Women and became a semi-independent nongovernmental organization (NGO),<sup>12</sup> post-Soviet government organized the State Duma's Committee on the Affairs of Women, Family and Youth (and later Children), which has existed since then. The Committee was given the role of overseeing the "woman question," in cooperation with the government and other agencies. In accordance with the Russian Federation's commitment to building democracy and being part of international legal order, the Committee was very attentive to the international agenda for women's rights. Several legal initiatives that originated in the Committee addressed violence against women and domestic violence.

The 1996 Concept of the Improvement of the Status of Women in the Russian Federation, which stayed in force till 2004 and was the result of Russia's commitment to the Beijing Platform, stated that one of its major goals was "to prevent and stop violence against women."<sup>13</sup> The document included such steps as "development of criminal, civil, labor and administrative legal sanctions to prosecute for crimes ... committed against women, including in the family."<sup>14</sup> To fulfill this obligation, in 1997 the Committee introduced the draft law "On the basics of socio-legal protection from violence in the family," which continued the Soviet tradition of providing social services to those in a "difficult life situation" (*trudnaia zhiznennaia situatsiia*).<sup>15</sup> The draft law was closely connected with the 1995 federal law "On the basics of provision of social services to the population of the Russian Federation,"<sup>16</sup> which contained a definition of the "difficult life situation" (*trudna-*

*ia zhiznennaia situatsiia*) as "the situation which violates a citizen's livelihood ... and which cannot be overcome on their own" (Article 3.4) and is still in use. The list of conditions included disability, old age, poverty, unemployment, homelessness, and conflicts and abuse in the family. The 1995 law guaranteed financial and in-kind help for such citizens and even temporary shelter for children in abusive families (Articles 8–12).

The 1997 draft law "On the basics of socio-legal protection from violence in the family" focused on prevention and intervention. It provided definitions of domestic violence and described measures that were to be undertaken by public agencies and social services to help survivors of family abuse. Already in 1997, the law included protection orders, a novelty for the Russian legal system, as well as shelters and other means of protection. The draft even dealt with legal issues by detailing how complaints about domestic violence should be communicated from law enforcement agencies to social services (Articles 7–9).

However, in June 1997 the draft was withdrawn by its sponsors, who agreed with the Duma's concluding assessment that Russian criminal and family codes contained all necessary norms to deal with violence in the family and that there was no need for a separate federal law.<sup>17</sup> This argument against specialized legislation on domestic violence also expanded to other gender-specific legislation, namely, the draft law "On state guarantees of equal rights and freedoms of men and women and equal opportunities for their realization,"<sup>18</sup> which entered the State Duma in 2003 as a result of several years' worth of work. In its official review of the draft law in 2008, after the draft spent almost six years tabled in the State Duma after its first reading, the government of the Russian Federation provided a detailed list of references to the existing legislation





Photo credit: A meeting of the Council under the President of the Russian Federation in Moscow, Russia, regarding state policy around family and child protection: Federal Assembly of the Russian Federation, November 2019

that made the provisions of the draft moot, in their opinion.<sup>19</sup>

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**“It was also the first international document that Russia rejected based on its incompatibility with Russia’s culture and tradition, which indicated Russia’s turn toward active use of the concept of cultural sovereignty.”**

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## **RUSSIA AND THE ISTANBUL CONVENTION**

In 2011, Russia refused to sign the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention, No. 210, hereafter “the

Convention”). The Convention was the first major international treaty that Russia did not sign. That the convention pertained to human rights instruments specifically was an important indication of Russia’s stance on human rights, especially the rights of women. It was also the first international document that Russia rejected based on its incompatibility with Russia’s culture and tradition, which indicated Russia’s turn toward active use of the concept of cultural sovereignty.<sup>20</sup>

The Istanbul Convention became a milestone and a bone of contention between Russia and the Council of Europe (CoE). This relationship had been contentious for some time prior to 2011,<sup>21</sup> but such open defiance of a major human rights convention signified a new stage of Russia’s relationship with international organizations. The Convention follows CEDAW and other international instruments and does bind the states that signed the treaty to provide better protections for the rights of women based on

essentially feminist concepts of human rights and violence against women.<sup>22</sup> The Convention itself is a result of negotiations, debates, and compromises among the CoE member states. While there seems to have been consensus during the preparation process that a convention on violence against women was needed, delegations from various countries expressed different opinions on the scope of the Convention during the preparatory meetings. While most of the delegations were in favor of a convention that covers all forms of violence against women, a minority of delegates wanted the Convention to focus on domestic violence irrespective of the victim's gender. The final wording of the Convention is a compromise between these two approaches: the Convention covers all forms of violence against women (Article 2.1) and encourages parties to apply the Convention to "all victims of domestic violence" (Article 2.2). Part of the compromise was that the criminal law articles, with the exception of female genital mutilation, are gender neutral and do not refer to sex or gender. These disagreements have been reflected in the ratification processes.<sup>23</sup>

Russia expressed a dissatisfaction with several requirements of the Convention. The Convention requires state parties to criminalize several forms of conduct that amount to violence against women and domestic violence, despite whether these forms of conduct are included in the respective state's criminal codes. These types of conduct include forced marriage, female genital mutilation, forced abortion, stalking, sexual harassment, physical violence, psychological violence, and sexual violence. The Convention also requires state parties to ensure that in criminal proceedings regarding the acts of violence covered by the Convention, "culture, custom, religion, tradition or so-called 'honour' are not regarded as justifications of such acts" (Article 42, paragraph 1). The Convention then obliges state parties to take the necessary legislative steps

or other measures to ensure that the offenses established in the Convention are punishable by effective, proportionate, and dissuasive sanctions (Article 45), taking into account their seriousness and aggravating circumstances, such as whether the acts are committed in the presence of a child (Article 46). As for preventive and protective measures, states must promote "changes in the social and cultural patterns of the behavior of women and men with a view to eradicating customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men" (Article 12). States must also provide support services for victims of violence, including legal and psychological counseling, financial assistance, housing, education, and training and assistance in finding employment (Article 20), specialist support services (Article 22), shelters (Article 23), and telephone helplines (Article 24). In order to implement the obligations set out the Convention, states must allocate "appropriate measures and human resources," thus creating a precise legal obligation in terms of public expenditure.<sup>24</sup> All these requirements would have resulted in serious amendments of Russian criminal law as well as civil law, social security legislation and, of course, a return to working on the federal law on gender equality.

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**“By trying to introduce restrictive conservative legislation under the auspices of a ‘protect the children’ slogan, Russian legislators inadvertently redirected society’s attention to gender-sensitive issues, including gender equality, women’s rights, and domestic violence.”**

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Photo credit: Activists at a rally for women's rights in St. Petersburg, Russia: Konstantin Lenkov, Shutterstock, March 2021

## CONSERVATIVE MOBILIZATION AND (DE)CRIMINALIZATION OF DOMESTIC VIOLENCE IN 2016-2017

The ideology of “traditional values” and the official “conservative turn” that took place in the early 2010s exposed post-Soviet negotiations on gender identity as a bone of contention in Russian society. By trying to introduce restrictive conservative legislation under the auspices of a “protect the children” slogan,<sup>25</sup> Russian legislators inadvertently redirected society’s attention to gender-sensitive issues, including gender equality, women’s rights, and domestic violence. Now every time the State Duma or the Federation Council received a piece of draft legislation involving gender-related issues, it stirred a wide public debate that turned into a standoff between conservative organizations, who spoke on behalf of “families” and “tradition,” and feminist groups and NGOs, who advocated for women’s rights.

The 2013 legislation that prohibited the promotion of nontraditional sexual relationships or “propaganda law” resulted in vocal public debate about what should be considered “traditional” and “non-traditional” sexual relationships, as well as to what extent the state should interfere with the private life of its citizens.<sup>26</sup> The draft legislation to ban abortion or to at least remove it from being covered by state-sponsored medical insurance, which was actively pushed by the Russian Orthodox Church, faced opposition not only from feminist organizations but also from medical and legal professionals, as well as from the Ministry of Health and Social Security, which argued that the costs of illegal abortion would be higher than what was currently paid as part of medical insurance.<sup>27</sup> In this debate, tradition was monetized and rejected based on a pragmatic argument of neoliberal economics. When domestic violence legislation entered the State Duma in May 2016, Russian society was well prepared, alert, and divided.



The changes to Article 116 of the Criminal Code, enacted in July 2016, set a precedent in Soviet and post-Soviet legislation on domestic violence. Since 1996, Article 116, titled “Assault” (Poboi), had stipulated punishments for assaults not resulting in serious health damage, the first revised post-Soviet Criminal Code. The changes to this article came as part of the package initiated by the Ministry of Justice in 2015. The package was aimed at “optimizing” the criminal and administrative justice system, easing the judicial load, and creating more effective prosecutorial mechanisms.<sup>28</sup> Part of this process was to decriminalize some actions from Article 116.1 and transfer them to the Administrative Code.<sup>29</sup> The idea behind this measure was an attempt to “save” on criminal prosecutions by invoking a “cheaper” administrative procedure, without (presumably) endangering the public. Administrative prosecution allows for a type of summary prosecution without any lengthy and complicated criminal involvement. While the Duma and various Duma committees discussed the amendment, a group of feminist-minded lawyers who defended survivors of domestic violence, led by Mari Davtyan, insisted that assault against family members should remain within criminal law, since such assaults were prominent and domestic violence discriminates against and endangers women.<sup>30</sup>

The break came in June 2016 during the second reading of the draft in the Committee on Legislation, when the head of the committee, a prominent lawyer named Pavel Krasheninnikov, suggested including three important words in the new version of Article 116—that is assault “committed to close persons” (v otnozhenii blizkikh litz).<sup>31</sup> His argument came from “protect the children” principle, in which criminal liability for child abuse should be in place in order to better protect children. This version became a law on July 3, 2016, (FZ-323) and therefore the new Criminal Code allowed for private-public

prosecution of violence committed by family members even if it did not result in grievous bodily harm or permanent health damage.<sup>32</sup> This amendment was labeled the “spanking law” (zakon o shlepках) in mass media and received furious criticism not only from conservative parental movements and the Russian Orthodox Church but also from infamous State Duma deputy Elena Mizulina. Mizulina called these changes “absurd” and “antifamily,” and expressed her anger by saying: “One gets the impression from this article [116] that such behavior within the family [assault] is more dangerous to society than that of strangers.”<sup>33</sup> On July 27, 2016, she introduced a bill to reverse these changes. It took six months and a new Duma composition to make it law. The new version of the code, in February 2017, excluded close persons from the article, so that “simple” assault not resulting in serious injury was relegated to the status of a petty offense punishable under Article 6.1 of the Administrative Code of the Russian Federation with a fine (60 to 400 euros) or other administrative punishments (10 to 15 days jail time or community labor).

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**“However, the political climate for such legislation was not favorable: It was a new Duma, and Elena Mizulina was on the warpath to cancel the ‘spanking law.’ Therefore, any legislation on domestic violence, no matter what its purpose, would not have succeeded.”**

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During Mizulina’s reconsolidation and aggressive campaign to “restore” the original intent of the 2015 package and remove “anti-family amendments,” in September 2016 the State Duma deputy represent-



ing the republic of Bashkortostan, Salia Murzabaeva, and Federation council member Anton Beliaev, a senator from the city of Vladimir, introduced a draft law “On the prevention of family domestic violence” (O profilaktike semeino-bytovogo nasilia), which was developed by the Ministry of Labor of the Russian Federation.<sup>34</sup> The explanatory note of the draft argued that “there is no systematic approach to this problem [domestic violence] in Russia” and that “domestic violence ... has become rampant.”<sup>35</sup> The note mentioned the absence of protection orders and the inability of police to deal with domestic abusers. The draft itself provided detailed definitions of “family domestic violence” (Article 3) and principles of prevention (Article 4), including protection orders (Articles 22–23). It was a standard federal law very similar to other legislation on prevention, such as federal laws on crime prevention (FZ-182). However, it was dismissed by the State Duma on a technicality just a month later. The decision stated that the draft lacked the assessment of the government of the Russian Federation, which was necessary for such legislation since it required budgeting.<sup>36</sup> It is important to note that both Murzabaeva and Beliaev are medical professionals who took a keen interest in child protection legislation. Beliaev is also known for his legal initiatives to harshen punishments for pedophiles, including chemical castration.<sup>37</sup> However, the political climate for such legislation was not favorable: It was a new Duma, and Elena Mizulina was on the warpath to cancel the “spanking law.” Therefore, any legislation on domestic violence, no matter what its purpose, would not have succeeded.

## THE 2019 DRAFT LAW ON THE PREVENTION OF FAMILY DOMESTIC VIOLENCE

In the autumn of 2019, the draft law on the prevention of family domestic (semeino-bytovoe) violence was the most controversial topic of public debate in Russia and a cause of intense campaigns and struggles between various sectors of civil society, social movement organizations, and the government. The draft law introduced new legal provisions for more effective prevention of domestic violence, the most controversial of which happened to be a definition of family domestic violence and protection orders, a universal international tool to deal with abusive husbands or partners. The debates around the definition stemmed from the absence of explicit criminalization of domestic violence in Russian legislation—and, therefore, any official definition of domestic violence. The same was also the case with protection orders, which the Russian legal system does not have. Therefore, when the draft defined family domestic violence as any “intentional act, inflicting or threatening to inflict physical and (or) psychological suffering and (or) property harm, which does not contain elements of administrative offense or a crime,”<sup>38</sup> it resulted in widespread criticism, which also reflected fears by the public that anyone could be prosecuted under this law, arbitrarily, based on an unclear and vague definition.<sup>39</sup>

The draft’s text was very close to the 2016 version, except for edited definition of “family domestic violence” (Article 2) and changes to the priority of principles of prevention in Article 4, in which “support and preservation of the family” (no. 4 in the 2016 version) was moved ahead of legality and the protection of human rights (no. 1 and 2 in the 2016 version, respectively). Otherwise, Article 5 defined the “subjects of prevention,” including social services, emergency shelters, medical services, and NGOs. Articles 6 to 16 detailed the responsibilities

of different agencies. Article 17 outlined the grounds for prevention measures, including information coming from social services, police, or the courts, which meant that official complaints ceased to be the only grounds for prosecution. Articles 18 to 25 defined the types and methods of prevention, including the controversial Articles 24 and 25 on protection orders. Overall, the draft continued the legal tradition of “prevention” legislation that was specifically applied to social problems such as crime, drug and alcohol abuse, poverty, homelessness, and so on.

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### “The COVID-19 pandemic restriction measures changed the political discourse regarding violence against women.”

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The Federation Council, whose legal initiative put forward this draft law, organized a series of public debates culminating in the online discussion of the draft law between November 29 and December 15, 2019.<sup>40</sup> Such a situation was unusual, but it followed the 2012 Resolution of the Government of the Russian Federation on conducting public discussions of draft legislation<sup>41</sup> as part of the “open government” policy.<sup>42</sup> However, this particular “discussion” attracted a record number of participants, with the web page registering 11,186 entries. Prior to and parallel with the online discussion, conservative social movement organizations as well as feminist groups had been conducting their own mass media campaigns either against or in support of the draft law.<sup>43</sup> In addition, they each organized their supporters to participate in the online discussion with arguments that were developed by spokespeople from their respective organizations. The government was symbolically absent from this debate, although some officials and deputies did express their

opinions on the problem of domestic violence and the need for such legislation.<sup>44</sup> With conservative groups rejecting the draft law as a foreign import and a breach of Russia’s sovereignty in the form of a threat to family, and feminist groups advocating for special legislation based on the personal stories of abused women and terrifying statistics about femicide, the question of the necessity of specialized legislation for the prevention of domestic violence became central to the debate. The conservatives insisted that Russian legislation contained all necessary provisions to deal with domestic violence (and some listed those) and they blamed law enforcement and the judiciary for their ineffectiveness in applying those provisions. The feminists argued that new legislation was needed to ensure that law enforcement and the judiciary would be effective in applying the existing legislation.<sup>45</sup> Therefore, there seems to be a consensus about the inability of law enforcement and the judiciary to effectively deal with domestic violence.

### CONCLUSION: COVID-19 RESTRICTIONS AND LEGISLATION ON PROTECTING WOMEN FROM DOMESTIC VIOLENCE

The COVID-19 pandemic restriction measures changed the political discourse regarding violence against women. Already in April 2020 the United Nations had described the worldwide increase in domestic abuse as a “shadow pandemic” alongside COVID-19. Russian High Commissioner for Human Rights Tatiana Moskalkova announced that the number of incidents of domestic violence had increased at least twofold.<sup>46</sup> The Committee of the Ministry of Internal Affairs on Crime Prevention issued special instructions on how to combat and prevent “crimes within the family,” addressed to all state agencies on March 31, 2020.<sup>47</sup> These measures included

additional support for crisis centers (or, in the absence of those, NGOs that provide support services to survivors of domestic violence), the establishment of hotlines, and a direct order to the police to “prosecute domestic violence under Article 116 of the Criminal Code.” Such traditional ways of dealing with domestic violence nevertheless created a framework for crisis management that is still in place and allows for the creation of further networks to support survivors of domestic violence.

The State Duma returned to the draft law on domestic violence in May 2020. However, during these discussions, the overall majority of the deputies and senators acknowledged the importance of the law and, specifically, the introduction of protection orders.<sup>48</sup> Moreover, in April 2021 there was a landmark decision by the Constitutional Court that recognized the amended Article 116 from 2017 as unconstitutional and ordered the article to be revised.<sup>49</sup> Following this decision, the Supreme Court of the Russian Federation initiated draft legislation to cancel private prosecution, which was specified in Article 116 and required the case to start only upon an official complaint by the victim.<sup>50</sup> Taken together, these legal changes have paved a path for the reintroduction into the Russian parliament of the law on the prevention of domestic violence—and renewed hope for its success this time.

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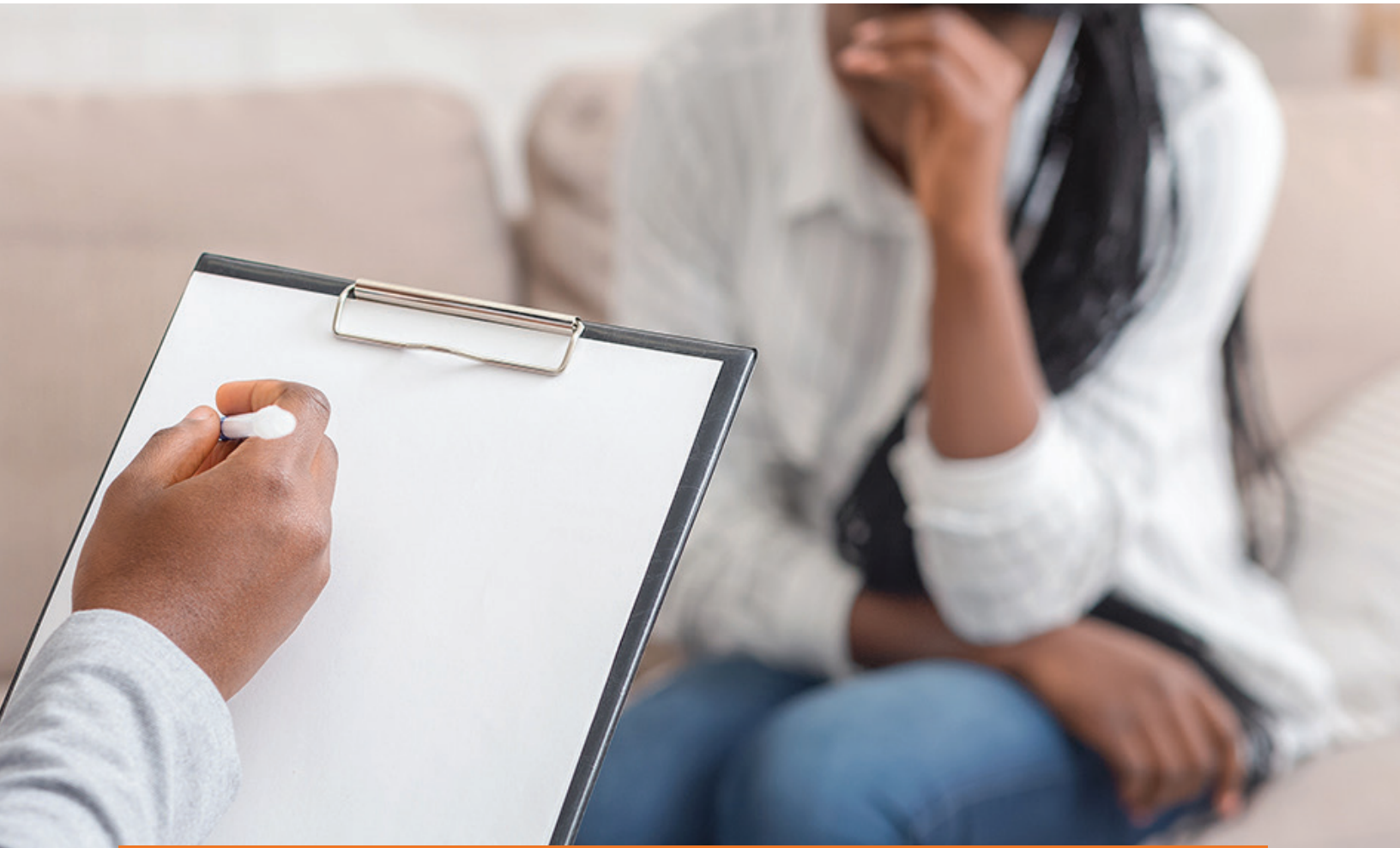
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# The Information Gains of the 4IR and Closing the GBV Knowledge Gap

Cassandra Pagan Araujo

## A COMPLEX PROBLEM WITH BASIC INFORMATION

We live in the most dynamic age in human history. The increasing fusion of our physical and digital realities provides us with access to nearly infinite information at any given time. Many hoped the Fourth Industrial Revolution (4IR) would effectively democratize information and thereby provide societies with the capability to identify problems and create evidence-based solutions. But the truth is, we still lack critical information about many of society's most persistent challenges. While artificial intelligence and machine learning provide unprecedented insight into human behavior, helping to drive consumption to new heights, the global community still fails to understand the scope and nature of many social ills. Gender-based violence (GBV) is one such problem.

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**“For all the technological and informational advances made in recent years, the information we are operating with in order to hold governments and institutions accountable for protecting all citizens is strikingly limited.”**

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GBV encompasses “physical, psychological, or sexual violence perpetrated against an individual or group on the basis of gender or gender norms”<sup>1</sup>—although it is often interchangeably, and narrowly, used to describe violence against women. It is a global scourge. An estimated 35 percent of women around the world have experienced physical or sexual violence from an intimate partner,<sup>2</sup> and cases are believed to be widely underreported. Only an estimated 7 percent of women who have experienced violence reported it to a formal source.<sup>3</sup> GBV is a

“wicked problem ... systemic in nature, complexly interrelated, and materialize[s] at the interface between public-private and profit-nonprofit interests”<sup>4</sup> in ways that the global community struggles to define, measure, and address. The complexity of GBV is ecological in nature, pervading all strata, including “factors operating at the individual, relationship, community and society levels.”<sup>5</sup> To know whether or not society is addressing GBV, we need to be able to measure and benchmark progress (or lack thereof) in all its complexity—however, we rely on basic and limited data to complete this task.

International efforts such as the Convention of the Elimination on All Forms of Discrimination Against Women (CEDAW) and the Belem do Para Convention highlight the need for norms and standards in addressing GBV, “including standards for domestic legislation, creating standards for global civil society to both advocate and monitor, and mobilizing domestic civil society around these new shared expectations of individual and state behavior.”<sup>6</sup>

Data are essential to holding governments to these standards. For all the technological and informational advances made in recent years, the information we are operating with in order to hold governments and institutions accountable for protecting all citizens is strikingly limited. We suffer from a knowledge gap regarding the extent to which GBV occurs, the forms it takes, the frequency at which it occurs, who is experiencing and perpetrating the violence, and critically, what works in reducing GBV. There are many reasons why this knowledge gap exists, and efforts such as the United Nations (UN) Sustainable Development Goals (SDGs) are working at the global level to address shortfalls in data, but there is much progress to be made. We cannot achieve the SDG’s goal to “eliminate all forms of violence against all women and girls in the public and private spheres”<sup>7</sup> if we cannot monitor its prevalence.

This paper will discuss why this knowledge gap exists and what we need to do to close it.

## WHY DON'T WE HAVE MORE DATA?

At its core, the reason the global community struggles to paint a complete picture of GBV is the ongoing debate over what, exactly, we mean by gender-based violence. There is a tension between adopting indicators with “a specialized focus on gender-based violence or the use of frameworks that facilitate the mainstreaming of violence against women.”<sup>8</sup> Essentially, one side of the debate argues that data should capture gender-based violence perpetrated against any and all victims, regardless of their sex. This approach would require a deeper understanding of the dynamics that shape violent events when they are recorded, to ensure it can be properly classified as gender-based violence, so as not to capture all instances of interpersonal violence (such as assault motivated for non-gendered reasons) and lose its meaning. While on the other side of the debate, some argue that the purpose of collecting such data is to prioritize and mainstream notions of gender-based violence specifically targeting women (although whether this is defined as a matter of sex or gender identity is a further debate) into perspectives and policy decisions, and therefore measurements should be based on sex-disaggregation between male and female victims. The lack of agreement on the scope of purpose of these data sets inhibits our ability to measure and understand the deeper issues surrounding gender-based violence.

Beyond the fundamental debate, there are five points of disagreement that further complicate the definition and scope of GBV indicators and data. These points include defining (1) perpetrators, (2) types of violence, (3) severity of violence, (4) preva-

lence versus events, and (5) the time frame in which the violence occurred.<sup>9</sup> The question of perpetrators has to do with the nature of the relationship with the victim. For example, should there be a narrower focus on intimate or former intimate partners who commit GBV? In that case, where do we include violence perpetrated by family members who are not an intimate partner, as in the extreme case of honor killings? How should we categorize the nature of the relationship between perpetrator and victim, and how can we know this?

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**“The lack of agreement on the scope of purpose of these data sets inhibits our ability to measure and understand the deeper issues surrounding gender-based violence.”**

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The question regarding the types of violence is similar in nature. What kinds of violence should be included in measurements, and what is the threshold of violence that should count? Standard definitions and measurements of physical and sexual violence already exist. However, with emotional violence, which evidence shows is more pervasive,<sup>10</sup> “there has been little progress in reaching consensus on how to conceptualize and measure psychological violence,”<sup>11</sup> despite its inclusion in the SDGs. Similarly, how do we define and measure patrimonial violence such as property grabbing?<sup>12</sup> Moreover, there is a debate regarding the severity of violence that should be measured and how to differentiate severe violence. What is the threshold of violence that should be measured? How does that vary according to type of violence? Can we reasonably lump physical violence such as shoving together with femicide and expect accurate measurements?





Photo Credit: BearFotos, Shutterstock

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**“GBV is rarely a one-off occurrence, and experts recognize that there are cycles of violence that repeat.”**

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The final two debates are quite literally a matter of time. The debate of prevalence versus events or incidents centers on whether it is more useful to understand the proportion of the population that experiences gender-based violence (prevalence) or to count the number of events in which gender-based violence occurs (incidents). GBV is rarely a one-off occurrence, and experts recognize that there are cycles of violence that repeat.<sup>13</sup> What do we miss when we do not understand the chronic nature of GBV? The other debate is whether the data should capture if victims have experienced violence in the course of their lifetime versus in the past 12 months. Crime surveys and other population-wide data collection efforts are expensive and time-consuming to conduct. With limited resources,

governments are not always able to collect data on a regular, annual basis, and therefore measuring if victims have experienced GBV in their lifetime gives a sense of prevalence and could be captured with lower frequency. At the same time, if the data measures prevalence over a lifetime, researchers are not able to effectively know if GBV prevalence is getting better or worse over time. To answer that question, measuring the prevalence of violence in the previous 12 months is more useful.

Regardless of what the scope of GBV means to a researcher or policymaker, the simple truth is we do not have the information necessary to test explanations or innovations. The problem is twofold: (1) There are issues with the data that we do collect, and (2) there are data we do not collect.

The data that we do have is limited by the definitional issues and lack of standards that prevent institutions from producing indicators we can compare over time and across countries. Often these data



are not disaggregated by age, not collected for women over the age of 49, do not differentiate between rural and urban settings, and do not capture where the violence occurred (workplace, school, home, etc.). Because of the lack of standards and definitions at the international level, national and subnational institutions are left to develop and implement data collection on their own accord. This puts tremendous pressure on national statistics offices (NSOs), which often lack the resources to create and publish these data.<sup>14</sup> Within this context, NSOs rely on less than perfect sources to produce the indicators that we see in databases and cited in research.

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**“Researchers and policymakers have some sense of the prevalence of physical and sexual violence committed against women, but the picture largely ends there.”**

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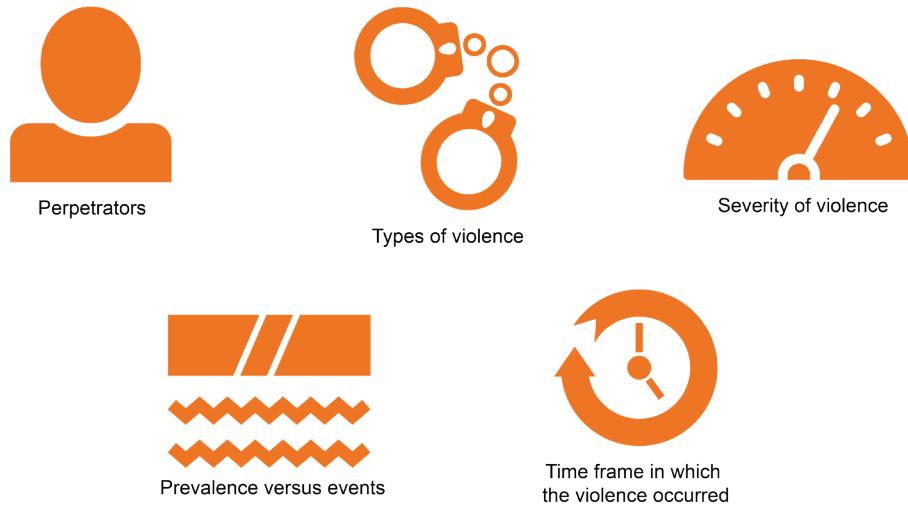
The two main sources of these data are surveys and administrative records. An advantage of surveys is that they can be designed to capture granularity that is often missing and include questions on the dynamics of the violence that can help researchers better differentiate gender-based violence from interpersonal violence. However, surveys are expensive to conduct on a regular basis, require specially trained enumerator staff to ensure the emotional well-being of participants, and draw from limited population samples that often exclude the most vulnerable, including the unhoused or those living in temporary shelters. Moreover, special care must be taken to preserve the confidentiality and rights of participants. Participants in the survey must also respond truthfully and choose to disclose the details of violent incidents to strangers, and some evidence

suggests that victims are more likely to report when surveys adopt a self-completion method rather than being conducted as in-person interviews.<sup>15</sup>

The second source of data are administrative records, most often reported from the justice system. These data draw from crime statistics collected by the police and convictions data collected by the courts, both of which are problematic. Statistics reported from police sources capture only a drop in the bucket of the actual number of GBV incidents because very few victims report to formal sources. Victims of GBV may be afraid of retribution from their abuser, may not trust the police or the justice system to protect them or investigate the case, may feel shame, or may not understand that they have experienced a crime. Statistics collected from convictions capture even fewer instances of GBV because they depend firstly on the incident being reported at all, and also that the incident is thoroughly investigated and the case judged, and that the perpetrator is convicted. Impunity for committing GBV is a persistent problem around the world. Completing this journey through the justice system may take years. In some contexts, intimate partner violence committed between a married couple is considered a private matter and is dismissed by the justice system, and therefore those cases are systematically excluded from these statistics. These barriers mean that high-quality, annual data on gender-based violence is rare, even as decision-makers rely on these imperfect data to make policy decisions.

The data that we do not collect tells a deeper story. Researchers and policymakers have some sense of the prevalence of physical and sexual violence committed against women, but the picture largely ends there. The acknowledgement that information gaps exist drives progress in creating new data and “since 2000, the effort involved in monitoring the

## Five points of disagreement that complicate the definition and scope of GBV indicators and data.



Graphic Credit: Yunuen Bonaparte

Millennium Development Goals (MDGs) has spurred increased investment to improve data for monitoring and accountability.”<sup>16</sup> The SDGs expanded the indicators from 60 under the MDG framework to 231 indicators to capture a more complete picture of human development. At the same time, the growth in the indicators the international community considers a priority presents a problem. The increase in indicators from initiatives like the SDGs “challenged the capacity of the international statistical community to innovate and find measurements methods for priorities which there are no agreed upon definitions and are difficult to measure.”<sup>17</sup> Creating standards, methodologies, and data collection instruments that apply globally is a complicated process that requires consensus and takes time.

It is also a process that relies on people, which raises a crucial question: Who is at the table when these decisions are made? The UN SDGs employ a consultative process that convenes experts and consultants from around the world to develop indicators that lack a standard methodology. But these groups are limited in size, and participation largely

depends on having existing contact with the UN body that acts as custodian to a given indicator. The people most affected by these data are unlikely to be in the room.

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**“Creating standards, methodologies, and data collection instruments that apply globally is a complicated process that requires consensus and takes time.”**

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Global indicators give us a sense of the scale of the problem and whether it is improving or degrading. But these data are not sufficient for making decisions about how to address GBV. Researchers also need to collect data about whether the interventions designed to reduce GBV work in practice. Researchers and decision-makers do not have sufficient evidence to know what policies and programs effectively reduce GBV. To answer this question, researchers must conduct evaluations of

programs and policies, but “rigorous evaluations of GBV interventions are infrequent, and those that are conducted are often limited by shortcomings in their methodology and measurement, and their lack of detailed intervention description.”<sup>18</sup> The gold standard of such evaluations employ randomized control trials (RCTs) to determine the impact of a given intervention, but these kinds of experiments are rarely conducted for GBV interventions. These evaluations are expensive to conduct, and because the results of the study are not available until years after the experiment is complete, there is little appetite to fund them. Moreover, ethical concerns limit what information can be gathered and how the experiment is designed, so as not to expose GBV victims to any harm. Finally, the results of any particular evaluation are specific to the location, program or policy, and context in which it occurred and cannot be easily extrapolated to other situations.

## WHAT CAN WE DO BETTER?

The GBV knowledge gap persists, but the benefits of the technological advances of the 4IR, when applied with intention, can help close that gap. First, the international community needs to develop standard indicators to measure GBV beyond physical and sexual violence. Specifically, indicators for emotional or psychological violence and patrimonial violence need to be defined and standardized. We also need to improve the methodologies for existing GBV indicators to include age disaggregation; move beyond sex-disaggregation and the limited focus on female victims; differentiate rural and urban settings; collect information regarding the relationship to the perpetrator beyond intimate partner (i.e., family member, work colleague, stranger, etc.); differentiate between the severity levels of violence; and

capture the count of GBV incidents in addition to measuring prevalence. The seismic shift to online collaboration in the post-COVID-19 world means that international cooperation no longer requires the burden of in-person meetings to convene expert groups. International organizations should leverage these technologies to create expert groups for indicators without standard methods and to revisit existing indicators.

Second, we need to expand the capacity of NSOs to collect and publish GBV data on an annual basis and make data available on a user-friendly and accessible platform to encourage accountability. This means providing resources and expertise to implement annual surveys with expanded population samples and improved methodologies for existing indicators, as well as employing data collection tools for new indicators. Mobile technologies should be employed to reduce the burden of data collection and expand self-completion methodologies. Similarly, data privacy innovations should be used to protect the confidentiality of survey participants.

Third, if we are going to rely on administrative data such as crime statistics, we need to improve the rates of reporting GBV to formal sources. Police need to be trained to respond to GBV, and more women should be actively recruited to police forces. Police should also adopt online reporting mechanisms to expand access. These e-reporting platforms should adopt responsive design techniques to ensure the reporting platform is easily accessible on mobile devices, and they should include a mechanism for reporting via SMS in cases where smartphone access is limited.

And finally, we need to increase the research and evaluations of GBV interventions. The financial burden for this work cannot depend on university fund-

ing alone. If governments and donors demand that those programs and policies be evidence-based, then the funding for conducting rigorous evaluations needs to be made available.

At the end of the day, improved data and information will not solve the problem of gender-based violence, but it will help expose the problem and give advocates the fuel needed to fan the flames of urgency. Policymakers will not be motivated to act by statistics alone, but the citizenry can use those statistics to hold policymakers accountable for the safety of their constituencies. Data is not the “new oil” of the 4IR, because it is not a scarce commodity and should not be treated as such. Data has value only when we create it, share it, and harness it to solve the problems that stymie human development.



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*Photo credit: Rajasthani women in veils in Beawar, Rajasthan, India: Sumit Saraswat, Shutterstock, April 2019*

# Addressing the Historical Roots of Gender-Based Violence in Twenty-First-Century India

Hari Seshasayee

Prehistorian Marylène Patou-Mathis, one of a select few who study the origin of violence in humans, has found that collective violence appeared with the “sedentarization of communities” around 15,000 years ago, and more important, that “Violence is not inscribed in our genes. Its appearance has historical and social causes.”<sup>1</sup>

The Seville Statement on Violence adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) also affirms that “there is nothing in our neurophysiology that compels us to react violently,” and consequently, “how we act is shaped by how we have been conditioned and socialized.”<sup>2</sup>

If violence among humans is not innate and has sociohistorical origins, other subsets of violence, such as gender-based violence (GBV), must also have similar roots. The underlying sociocultural origins of GBV are well recorded in the book *Archaeologies of Gender and Violence*, which includes a Greek-Ptolemaic text from 2,200 years ago that eerily mirrors society today: “Do not disregard an insult from your wife. Beat her!”<sup>3</sup>

Greek mythology too is rife with stories of sexual violence against women and girls. Susanne Moraw, a classical archaeologist, draws striking comparisons between Ancient Greece and the present day, through motifs of sexualized murder, penetration by objects such as a symbolic phallus, and sexualized torture and rape. She also observes that in most cases “the perpetrator is ascribed an explicitly higher status than is his victim, apart from the fact that he is male and she is not.”<sup>4</sup> This motif of hierarchy is often used as justification for GBV, especially when directed at minorities or in times of conflict, from the Roman Empire 2,000 years ago and the colonization of the Americas 500 years ago to the partition of India and the present day.

The system of patriarchy too has ancient origins: “Patriarchy is a historic creation formed by men and women in a process which took nearly 2,500 years to its completion,” says historian Gerda Lerner, as she traces its origin to early Mesopotamia (“the cradle of civilization”) in 3,100 BC.<sup>5</sup>

These historical texts provide evidence of three central elements of violence against women, which remain relevant today:

1. **Historical:** Violence against women, be it through sexual violence, physical assault, rape or femicide, goes back several millennia, appearing as early as the sedentarization of humans in small communities.
2. **Sociocultural roots:** Since violence is not “inscribed in our genes,” we should be cognizant of its deep sociocultural causes that have been fostered over the years. Violence directed at women is visibly apparent, justified, and even encouraged in mythological texts, religion, and literature.
3. **Global:** Nearly every civilization with a recorded history has left evidence of violence against women. UN Women estimates that one in three women globally face some form of sexual violence,<sup>6</sup> cutting across race, ethnicity, class, and nationality.

Thus the question must be asked: Why has violence against women, which began several millennia ago, remained nearly immutable to this day? In other words, why is a dictum from the Ptolemaic period 2,200 years ago to beat one’s wife still strikingly apposite today?

Rajni Bakshi, an author and rights activist, offers an important caveat that may help us understand this



issue, cautioning that “we must locate GBV as one element in the larger context of violence and war.”

## THE ROOTS OF GBV IN INDIA

In India’s case, the roots of GBV can be traced to innumerable sociocultural elements, including but not limited to the *Manusmriti* in the second century BC (allocating to women “the habit of lying, sitting around and an indiscriminate love of ornaments, anger, meanness, treachery, and bad conduct”),<sup>7</sup> literary works like the *Ramayana* (which repeatedly denounces the “fickleness” of women, not to mention Draupadi’s public *vastraharana* [disrobing] and Sita’s fire test to prove her “purity”), numerous historical texts (the *Dharmashastra*, *Atharvaveda*, and *Tolkappiyam*)<sup>8</sup> that advocate the marriage of girls just as they attain puberty (or even earlier), in the historical practice of dowry (where the bride’s family bestows costly gifts to the groom’s as a prerequisite to marriage; dowry cuts across religion, class, and caste in India), and sati, where a widow sacrifices herself atop her deceased husband’s funeral pyre. Historian Uma Chakravarti concludes in her article on the origins of patriarchy in India that “the design of the patriarchal caste-class structure was mapped out by the Brahmanas; pativrata, the specific dharma of the Hindu wife, then became the ideology by which women accepted and even aspired to chastity and wifely fidelity as the highest expression of their selfhood.”<sup>9</sup>

These sociocultural notions and customs paved the way for India’s profoundly patriarchal society, as well as for the patrilineal system that ensures property rights and inheritance remain with men. In addition to the sexual violence and domestic abuse women face globally, women in India face two additional challenges:

1. Marriage-related violence, including dowry deaths, honor killings, forced marriages, and child marriages.
2. Violence related to caste or religion, especially with regards to Dalits, lower castes, and religious minorities.

In addition to these sociocultural causes, the advent of colonialism added a new layer of complexity that set back the cause of women’s rights. Neelam Deo, a former Indian ambassador and former board member of Breakthrough India, which works to prevent violence against girls and women, declared that “British colonialism froze our social structures and delayed any change we could expect with regards to women’s rights. It took the Bengal Renaissance for the practice of Sati to be banned and even widow remarriage was allowed only after repeated campaigning in Maharashtra and Bengal.”<sup>10</sup>

## THE LAWS EXIST, BUT IMPLEMENTATION IS LAX

The Constitution of India, the Indian Penal Code (IPC), and the Indian Evidence Act (IEA) all offer protection for women in the eyes of the law, and include concepts of equality and nondiscrimination. Although the IPC remains the main legal instrument to address crimes against women, India has also enacted legislation that specifically addresses GBV, including:

- The Immoral Traffic (Prevention) Act, 1956,<sup>11</sup> meant to restrict prostitution and abolish human trafficking.



Photo credit: Sati handprints at Mehrangarh Fort in Jodhpur, Rajasthan, India: Artem Mishukov, Shutterstock

- The Dowry Prohibition Act, 1961,<sup>12</sup> which made the act of taking or giving dowry a criminal offense punishable up to five years in prison.
- The Indecent Representation of Women Act, 1986,<sup>13</sup> which seeks to “prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner.”
- The Commission of Sati (Prevention) Act, 1987,<sup>14</sup> following the ban of sati more than a century prior, this act sought to more effectively prevent the commission of sati and its glorification.
- Protection of Women from Domestic Violence Act, 2005,<sup>15</sup> which defined the term “domestic violence” for the first time under Indian law, including physical, sexual, verbal, emotional, and economic abuse.
- The Information Technology (Amendment) Act, 2008,<sup>16</sup> included provisions to address cyber stalking, cyber defamation, online harassment, child pornography, and bullying, all of which became rampant in the twenty-first century.
- The Sexual Harassment of Women at Workplace Act, 2013,<sup>17</sup> which seeks to provide “a right to a safe environment free from sexual harassment.”
- The Criminal Law (Amendment) Act, 2013, popularly known as the Nirbhaya Act, it incorporated offences like acid attacks, sexual harassment, voyeurism, and stalking into the IPC. It also made it mandatory for medical personnel to administer and treat victims of sexual assault.

Yet, as the Bhartiya Stree Shakti report, funded by India’s Ministry of Women and Child Development (MWCD), outlines, “despite constitutional protection and several legislations, gender discrimination and injustices continue to occur. This is mainly because those who enforce the laws or interpret them do

not always fully share the philosophy of gender justice.”<sup>18</sup>

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## “Despite the passing of numerous laws protecting women in India, GBV is nearly universal, cutting across socioeconomic and religious strata.”

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The lax enforcement of these laws is unequivocal: After reviewing 1,635 rape judgments between 2013 and 2018, legal scholar Preeti Pratishruti Dash found that the conviction rate for crimes against women stood at only 19 percent, far less than the 47 percent conviction rate for all other crimes. This data point is perhaps the most damning indication yet that India’s legal system is ill-equipped to address the issue of GBV.<sup>19</sup>

Despite the passing of numerous laws protecting women in India, GBV is nearly universal, cutting across socioeconomic and religious strata. Deo underscores that “the problem with the implementation of laws meant to protect women is that the judiciary’s default position is in favour of the man. The social attitude of the judge is to blame the complainant [the woman].” A recent verdict in one of India’s most high-profile cases of sexual assault, involving journalist Tarun Tejpal, seems to confirm Deo’s comments. Responding to Tejpal’s acquittal for rape charges, the Bombay High Court exclaimed that “the judgment appears to provide a manual on how rape victims should behave.”<sup>20</sup> The distressing consequence of this biased legal system is that 99.1 percent of women in India prefer not to report cases of GBV to the authorities.<sup>21</sup>

## GENDER INEQUALITY IN TWENTY-FIRST-CENTURY INDIA

If the law is unable to protect Indian women from acts of violence, nor administer justice after the act, it is because deep sociocultural beliefs continue to justify GBV in India. As the MWCD report confirms, gender equality is not a concept shared by those in judicial, political, or law enforcement institutions. Three widely prevalent tropes continue to permeate across India:

1. **Violence against women is acceptable:** As many as two-thirds of men in India believe “there are times when a woman deserves to be beaten,” and even more think this violence should be tolerated “in order to keep her family together.”<sup>22</sup> This notion runs so deep that IPC Section 375 specifically states that marital rape is not a criminal offense.<sup>23</sup> This exception should be removed as swiftly as possible. The justification for violence within marriages extends even beyond the husband, since brides are often considered part of the husband’s family after marriage. As a result, “cruelty by husband or his relatives” is the most reported of all crimes against women.<sup>24</sup>

2. **The “immoral” or “promiscuous” prosecutrix:** Until 2002, the so-called “immoral character” of complainants (women), admissible as evidence under Section 155(4) of the IEA, often determined judgments of rape cases.<sup>25</sup> That it took independent India 55 years to remove this clause is just another sign of the misogynistic attitudes that shape the legal system. Yet, despite the removal of Section 155(4), the “immoral character” of women continues to influence rape judgments; Bhabna Das, an Advocate-on-Record in the Supreme Court of India (SCI), writes that the “promiscuous prosecutrix, a ravished woman with a misplaced moral compass, is a long-running trope in rape discourse. Complain-





Photo credit: Indian women gather at a rally in Kolkata, India, in remembrance of Jyoti Singh's brutal murder in 2012: Arindam Banerjee, Shutterstock, December 2014

ants, despite their obvious reluctance, are often cast in this role by the accused.”<sup>26</sup>

**3. Caste and religious justifications:** It would be remiss not to mention the disproportionately highly burden faced by women from India’s lower castes and minorities. As Dalit rights activist Thenmozhi Soundararajan explains, “Just as there is no way to understand sexual violence in the history of the US without understanding racism and slavery, there is no way to understand the frequency and lack of punishment of violence against women in India right now without understanding caste.”<sup>27</sup> For most women from India’s minorities, the law remains out of reach. The Bhanwari Devi case is most illustrative: Due to her opposition to the child marriage of a 9-month-old girl in her village, Bhanwari (a Dalit woman) was gang-raped by five men of the more affluent Gujjar caste. The case took a political turn, with judges changing five times, until one acquitted the men of rape charges, condoning the act with

one reason more bizarre than the next, including that “a member of the higher caste cannot rape a lower caste woman because of reasons of purity.”<sup>28</sup> Another element is honor killings—when girls or women are killed because of their courtship with someone from another caste or religion. Given the gruesome nature of the crime and the high rate of occurrence, particularly in North India, the SCI directed India’s central and state governments in 2018 to submit plans of action to specifically “combat honour crimes.”<sup>29</sup> A more recent subject is “love jihad,” a conspiracy theory that purports forceful religious conversions (specifically of Hindu or Christian women to Islam), which has received so much credence that multiple Indian states have passed laws to prevent it. Ultimately, the context of caste discrimination falls within deeper, religious justifications (that cuts across religions in India); as Deo notes, “acculturation through religion is so deep that a high percentage of Indian women also



think it's all right to be beaten for the most minor infractions."<sup>30</sup>

These recurring sociocultural themes—that women deserve violence, are of “immoral character,” or are simply subordinate—make it a grueling task to successfully navigate the legal system. To begin with, many women are unlikely to report acts of violence, especially from their own partners; their own families will likely discourage them from lodging a complaint. Those who make official complaints face moralistic questioning by the police. The investigations that follow are often weak or absent; in cases where a political, religious, or influential person is involved, the complainant's family and friends are also at risk. If the case goes public, the woman risks ostracism for being a victim of sexual assault.

These obstacles present themselves even before entering the legal system. The cost to the complainant is therefore extremely high. These factors are multiplied if the victim is from a lower caste, a minority religion, is transgender or LGBTQ+, or lives in rural India, where attitudes of male chauvinism run even deeper. It is not surprising that only 0.9 percent of Indian women who face GBV report it to the authorities.<sup>31</sup> According to Bishakha Datta, an activist and founder of Point of View, a nongovernmental organization (NGO) that works on gender, sexuality, and women's rights, this rather agonizing “process is the punishment.”<sup>32</sup>

## **GBV POLICIES IN INDIA: LIMITED BUT VALUABLE PROGRESS**

Despite this gloomy state of affairs, two seminal rape cases acted as turning points in India's fight

against GBV: the 1972 Mathura rape case, and the 2012 Delhi gang rape, popularly called the Nirbhaya case.

In 1972, a tribal girl named Mathura was raped by two policemen inside the police station; in 1979, the SCI acquitted the policemen and instead blamed Mathura: “because she was used to sex, she might have incited the cops (they were drunk on duty) to have intercourse with her.”<sup>33</sup> This marked a watershed moment for India's feminist movement: widespread protests and advocacy led to legal amendments that made custodial rape (including a woman under the custody of police, public servants, armed forces personnel, or medical institutions) a criminal offense in Section 376 of the IPC,<sup>34</sup> placed rebuttable presumption for custodial rape in favor of the woman, and led to a new law on cruelty against women in 1984 and against dowry death in 1986.<sup>35</sup>

The more recent Nirbhaya case, where Jyoti Singh Pandey was gang raped and tortured to death on a private bus, led to nationwide protests, social media campaigns, and increased awareness of GBV in India. It remains one of few cases where the rapists were promptly convicted and even sentenced to death. It had an even greater impact on the legal system: It led to the Criminal Law (Amendment) Ordinance in 2013, the establishment of fast-track courts for rape cases, and the Justice Verma Committee recommendations.

Although much remains to be done, some progress in addressing GBV is worth noting:

1. **Policies and implementation of laws:** One of the immediate consequences of the Nirbhaya case was the appointment of the Justice Verma Committee, which submitted a 644-page report<sup>36</sup> after considering 80,000 suggestions from the public.



Photo credit: Students at a voting awareness event arranged by the local administration in Chittorgarh, India: Pradeep Gaurs, Shutterstock, November 2013

Several recommendations were soon drafted into law, including the expansion of the definition of rape beyond vaginal penetration, the inclusion of verbal sexual assault, sexual harassment in the workplace, tougher sentences for human trafficking and child sexual abuse, medical support for victims, and police reforms.

**2. Police reform:** As the Justice Verma Committee notes, “the members of the police force themselves often come from a society where patriarchal superiority is established,” and consequently, “male police officers do not take complaints of rape seriously.”<sup>37</sup> A handful of police reforms have been passed, but they have had limited impact so far:

**a. First Information Report (FIR):** Indian law mandates that police officers register complaints of sexual assault. Failure to do so can result in two years of imprisonment for police officers; yet, many still resist filing FIRs “especially if the victim is from an

economically or socially marginalized community.”<sup>38</sup>

**b. Special Cell for Women and Children:** In 1984, the Tata Institute of Social Sciences in Mumbai collaborated with the Bombay Police to create a special cell for women and children within police stations. This essentially became “a service provided to women survivors by trained social workers, strategically located in the police system with a clear understanding that VAW [violence against women] is a crime and that it is the responsibility of the State to prevent and counter it.” The project had such a positive social impact that it was adopted by the state government of Maharashtra and expanded to numerous cities.

**c. Police helpline:** Most states across India have help lines that specifically cater to GBV.<sup>39</sup> While these helplines have had a discernible impact, many remain unaware of them. The Mumbai Police’s collaboration with women’s rights organizations that

train and coordinate the running of GBV help lines is a best-case practice that can be replicated in other parts of India.

d. **Sex offenders database:** In September 2018, India launched its National Database on Sexual Offenders, to help law enforcement agencies monitor and investigate sex offenders; India became only the ninth country in the world with such a database.

e. **Domestic violence as a civil offense:** Given the difficulties of filing a criminal complaint with the police, the Protection of Women from Domestic Violence Act 2005 introduced the option of filing a civil complaint with a magistrate. Under the act, state governments must provide protection officers, medical aid, and counseling for complainants.

f. **Gender sensitivity training:** Organizations like Majlis Law work closely with legal and law enforcement institutions to train them on handling GBV cases. In 2017 alone, Majlis trained 535 judges, 100 protection officers, 85 legal aid lawyers, 200 women probationary police officers, and 150 medical practitioners, and it also organized awareness campaigns for more than 2,500 students—all in the state of Maharashtra.<sup>40</sup> The work of Majlis and other organizations should be replicated nationally and stands as an example of the impact that NGOs can have.

3. **Educational and awareness campaigns:** As the Justice Verma Committee report notes, legal reforms should be “accompanied by widespread measures raising awareness of women’s rights to autonomy and physical integrity.”<sup>41</sup> Many organizations have attempted to increase awareness of gender equality through multimedia campaigns, training sessions, and educational content, including Breakthrough’s Bell Bajao campaign, Vogue India’s Start with the Boys short film, the BBC and UNICEF’s

Aadha Full television series, Jagriti Youth’s training workshops for young male students, the Gender Equity Movement in Schools program, and the Centre for Health and Social Justice’s MITRA and Parichiti initiatives.<sup>42</sup> Others like Akshara, Majlis, and countless women’s rights organizations contribute more than their fair share to increasing awareness of GBV. Yet, for such initiatives to have nationwide impact, they need to target the mainstream, taking advantage of India’s culture of hero worship, particularly in cinema, sports, and politics.

## RECOMMENDATIONS FOR A MORE GENDER-EQUAL INDIA

The moral justification for gender equality is unquestionable; nevertheless, there remains another important motive for India—the economy. Women remain conspicuously absent in India’s economic growth story. The few women who earn a living in India remain in “labor-intensive, home-based, and informal work, concentrated in low-productivity sectors.”<sup>43</sup> The result? Only 18 percent of India’s gross domestic product (GDP) comes from women.

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**“Despite all the progress toward a more gender-equal India, millions continue to reinforce sociocultural tropes that hinder and even reverse the cause of gender equality.”**

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Due to India’s obstinate roots in patriarchy, the list of recommendations for addressing GBV is long, obvious, and arduous. It is not difficult to map what needs to be done, but it remains notoriously





Photo credit: West Bengal Chief Minister Mamata Banerjee addresses protesters after calling off her sit-in protest in Kolkata, India: Saikat Paul, Shutterstock, February 2019

challenging to actually get it done. Despite all the progress toward a more gender-equal India, millions continue to reinforce sociocultural tropes that hinder and even reverse the cause of gender equality. A host of organizations and individuals have already made sound, enforceable recommendations for this cause:

**1. Ministry of Women and Child Development:**

India's MWCD published 20 detailed recommendations for addressing GBV in its *Bhartiya Stree Shakti* report. These include the right to legal representation and assistance, setting up a criminal injuries' compensation board and a victim compensatory fund, better coordination between investigating officers and public prosecutors, more modern investigative and forensic techniques, gender sensitivity training programs (for political institutions, the judicial system, police, media, and medical professionals), the promotion of women judges in GBV cases, recruitment of more women police officers, the

setting up of One Stop Crisis Centers, and increasing the autonomy of NGOs working on GBV.<sup>44</sup>

**2. Womanifesto:**

In 2014, a collection of individuals and women's organizations published a six-point plan for gender equality called the "Womanifesto."<sup>45</sup> Specifically, it called for the launch of well-funded and long-term public education programs; accountability of government agencies to implement GBV laws; passing of the Women's Reservation Bill; the implementation of police reforms and sensitization; the establishment of fast-track courts; and adequate support for GBV survivors.

**3. Partners for Law in Development (PLD):**

A study of rape prosecutions in Delhi between 2014 and 2015 by PLD had some noteworthy findings and recommendations. These included shifting the emphasis from gender-sensitization programs to more comprehensive training programs for the police, medical personnel, and public prosecutors;



the establishment of specialized agencies to provide single-window support to GBV victims; the provision of medical care and counseling for GBV victims without a prerequisite that they register formal complaints; focus on more realistic timelines for rape trials, since the current two-month stipulation results in hasty conclusions; mandate an end to direct, hostile cross-examinations during trial, instead routing questions through a presiding officer; and extending witness protection beyond court premises.<sup>46</sup>

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### “The sociocultural causes of GBV in India need to be uprooted for any lasting, long-term change.”

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The police and the judiciary may be responsible for law and order, but neither strike at the underlying causes of violence against women. The sociocultural causes of GBV in India need to be uprooted for any lasting, long-term change. The following is a list of sociocultural recommendations to promote gender equality:

1. **Women in politics:** Of the 543 seats in India’s Lok Sabha (lower house of parliament), only 79 are currently held by women. Yet, this is the highest percentage in the Lok Sabha’s history.<sup>47</sup> India must urgently pass the Women’s Reservation Bill, which seeks to reserve one-third of Lok Sabha seats for women, and it can also learn from Latin American countries—many of which face similar issues of gender inequality—that have successfully implemented quotas for women in political parties, electoral lists, and as candidates in general elections.

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### “A full 70 years after independence, India’s female labor force participation rate reached its lowest point at 17.5 percent in 2017.”

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2. **Women in the workplace:** A full 70 years after independence, India’s female labor force participation rate reached its lowest point at 17.5 percent in 2017.<sup>48</sup> Estimates suggest that an increase in women’s economic participation could boost GDP by 27 percent.<sup>49</sup> The Companies Act of 2013 mandated that companies with a capital of 100 crore rupees (\$14 million) or revenues of 300 crore rupees (\$42 million) appoint at least one woman on the board of directors.<sup>50</sup> While this is a welcome move, India should also enact quotas for women in the public sector, while actively promoting women’s participation in the private sector and enacting legal measures to guarantee equal pay.

3. **Portrayal of women in visual and literary content:** India is a cinema-loving nation and the largest producer of films globally. Unfortunately, Indian cinema often reinforces gender stereotypes. A study of Indian films in the twenty-first century by employing the Bechdel test<sup>51</sup> found that female characters, especially in top-grossing films, are “mere accessories to the plot” and “serve as eye-candy.”<sup>52</sup> A newer generation of women filmmakers are bringing about gradual changes in how women are portrayed in visual content, especially by eliminating tropes like “item numbers” (provocative dance numbers that objectify women), giving women a sense of agency, and addressing women’s issues. These content creators must be promoted and supported financially so that women can be viewed differently by future generations of Indians. The government can also

consider expanding the Indecent Representation of Women Act to include crass gender stereotypes that objectify women and portray them as completely devoid of agency.

**4. Transgender and LGBTQ+ protections:** Transgender and LGBTQ+ people, who form part of the wider gender umbrella, face even more challenges than straight, cisgender women in India do. To begin with, they are excluded from India's rape law, which defines men as perpetrators of rape and women as victims. Even the Transgender Persons Act of 2019 limits punishment for sexual offenses against transgender people to between six months and two years of imprisonment. The law must include transgender and LGBTQ+ people within the framework of the IPC and offer them adequate protection; more awareness campaigns are also required to reduce the stigma they face.

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**“Increasing the access to education for girls and women in India would be a prerequisite for better women's representation in the labor force, politics, the judicial system, law enforcement agencies, and any significant institution with a national impact.”**

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**5. Education:** A number of government initiatives, such as the Mahila Samakhya programme, the Right to Education Act, the National Programme for Education of Girls at Elementary Level, the Kasturba Gandhi Balika Vidyalaya Scheme, and the Beti Bachao, Beti Padhao scheme have advanced the cause of girls' education.<sup>53</sup> Consequently, far more

girls today go to school and stay in school.<sup>54</sup> Yet some states with patently low female literacy and school enrollment lag behind; less than 0.5 percent of GBV cases were reported by women in these states.<sup>55</sup> A 2018 report by women's rights activist Urvashi Sahnii recommends the introduction of gender education as part of school curriculum and the inclusion of gender-sensitive modules in teacher trainings.<sup>56</sup> Increasing the access to education for girls and women in India would be a prerequisite for better women's representation in the labor force, politics, the judicial system, law enforcement agencies, and any significant institution with a national impact. Education will also play a vital role in changing existing gender norms that motivate GBV.

## CONCLUSION

In India, as in much of the rest of the world, achieving the goal of gender equality is impossible within the present framework of patriarchy. Despite all the progress in addressing GBV through the enactment of new laws, training of police and judges, awareness campaigns, and the promotion of equal participation of women in society, lasting change is unlikely unless we uproot historical notions of patriarchy; this, by far, remains our most daunting challenge.

The fight for gender equality is a historical one. It began millennia ago and is likely (unfortunately) to last many years longer. Bakshi believes that “human attitudes shaped over millennia are unlikely to change over the course of a few years. Lasting change will take time and diverse forms of effort. Even if we manage to achieve some sense of equality, ending the system of patriarchy will require a much larger transformation in how power is defined and operates in society at all levels.”<sup>57</sup> Given the his-

torical injustice meted out by generations of men, it is fundamental that men also join this movement. Women alone cannot be expected to carry the burden of the morally bankrupt system of gender inequality. As Lana Wells, a Canadian professor, articulated at a discussion at the UN Human Rights Council, “in order to truly end violence and discrimination against women and girls, men and boys must be seen as more than part of the problem; they have to be seen as integral to the solution.”<sup>58</sup>

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**“Given the historical injustice meted out by generations of men, it is fundamental that men also join this movement.”**

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India must continue to employ every possible method to reduce the deleterious impacts of GBV on women and society as a whole, be it through the better implementation of laws, police reform, increasing the participation of women in politics and in the workplace, better portrayal of women in visual and literary content, and educating more girls and women. Nonetheless, as Deo cogently explains, “any positive change is to be welcomed, but no change is to be thought of as enough.”

India’s fight against GBV is part and parcel of the world’s struggle with this issue. It would require a global effort to accelerate the pace of gender equality, something akin to the second and third waves of democracy in the latter half of the twenty-first century. The South African Constitution has already drawn a parallel between colonialism and patriarchy, noting in its Preamble that “the consolidation of democracy in our country requires eradication of social and economic inequalities, especially those that are systemic in nature, which were generated in our

history by colonialism, apartheid and patriarchy.”<sup>59</sup> As in the case of colonialism, perhaps we will reach a point in the future when GBV is considered morally unacceptable, after which there will (hopefully) be no turning back.

As Lerner examined in her decades-long career as one of the founders of the field of women’s history, the system of patriarchy has endured for more than 5,100 years. Yet her work shows reason for optimism. In her treatise *The Creation of Patriarchy*, she concludes, “the system of patriarchy is a historic construct; it has a beginning; it will have an end. Its time seems to have nearly run its course—it no longer serves the needs of men or women and in its inextricable linkage to militarism, hierarchy, and racism it threatens the very existence of life on earth.”<sup>60</sup>

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## A Road Map from Canada: Mandatory Sexual Assault Law Training for Judges

**Hon. Rona Ambrose**

The truth is that it should never have been this hard.

Sometimes in politics even the policies that enjoy broad-based support across party lines can face unforeseen challenges. Especially when those policies are designed to shine a light on shadowy areas of our institutions or challenge entrenched beliefs that some are not yet ready to reconcile.

This was the case with my Private Member's Bill C-337,<sup>1</sup> An Act to amend the Judges Act and the Criminal Code, more commonly known as the JUST Act. I first introduced it in 2017, when I was serving as the leader of the Official Opposition in the Canadian

House of Commons. It was a modest piece of legislation that was designed to increase confidence in one of our most prized institutions: our judiciary.

The JUST Act introduced mandatory sexual assault law training for Canadian judges at the federal level. It would ensure that education and training were provided to the leaders in our justice system who hold the most power—our judges—while also providing greater transparency around their rulings.



## THE BILL

Canadian sexual assault law, while robust, is one of the most complex areas of law, and it requires specialized education. As such, mandatory training would focus on deconstructing rape myths and victim stereotypes, and it would shed new light on the impact trauma has on memory, among other things. The JUST Act followed the spirit of similar requirements already practiced in the United Kingdom, where judges must refresh their training every three years or they cannot preside over sexual assault trials.

Time and again errors in sexual assault law are made. In one month alone in 2019, the Supreme Court of Canada overturned two cases due to trial judges incorrectly applying sexual assault law specifically around consent and allowing rape myths and victim stereotypes into the courtroom.<sup>2</sup> In a two-year period, the province of Alberta saw four cases overturned for the same reasons.<sup>3</sup>

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**“It is estimated that 1 in 3 women and 1 in 6 men will experience sexual violence in their lifetime.”**

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Typically, errors in the courtroom are only brought to light when a journalist witnesses a trial or when an academic researcher digs into court transcripts (a costly and lengthy process). Not only is there little accountability for the ignorance of sexual assault law by some judges—there is even less transparency around how they render their decisions. The JUST Act intends to address both of those deficits.

It is estimated that 1 in 3 women<sup>4</sup> and 1 in 6 men<sup>5</sup> will experience sexual violence in their lifetime. For Indigenous women, the numbers are far worse; they are three times more likely to be sexually assaulted than non-Indigenous women.<sup>6</sup> Most of

these victims will remain silent. Ninety-five percent of women do not report these kinds of assaults,<sup>7</sup> and men and boys are even less likely to report them. When asked why, according to Justice Canada, two-thirds of victims say they have no faith in the courts.<sup>8</sup>

## THE JOURNEY

When I entered politics, I vowed to be a passionate advocate for women in Canada and around the world. When I became the leader of the Official Opposition, it was an opportunity to bring forward legislation that would correct the disparities in our courtrooms and encourage more victims to report.

I couldn't believe that rape myths and stereotypes plagued our courtrooms, that trial judges would say things like “Why didn't you just keep your legs closed?”<sup>9</sup> or “Clearly a drunk can consent.”<sup>10</sup>

I introduced Bill C-337 to help ensure that these kinds of things didn't happen again. Given the alarming statistics and the undeniable mountain of evidence in court transcripts, it never occurred to me or to the bill's advocates that it would have been such an arduous road.

It is highly unusual in the Canadian parliamentary system to attain all-party support for legislation; it is even more unusual for the support to fall behind a private member's bill, let alone one sponsored by the leader of the Official Opposition.

But my bill had the unanimous support of all parties. I worked closely with members across party lines—everyone wanted to see this done.

And then it sat in the Senate. It sat there for so long I had left the House of Commons and moved into the private sector while waiting for the bill to be passed. I expected it would be. After all, it is customary for the Senate to prioritize passing

legislation that has the full weight of the House of Commons behind it.

Suffice it to say, that is not what happened.

## HOW IT GOT DONE

I refused to let a small group of senators derail the will of the House of Commons and deny legislation that was desperately needed. I spent the next several years building a team and working with anyone who was willing to support the bill. I traveled to different provinces, advocating and working with multiple jurisdictions. Prince Edward Island became the first Canadian province to bring in similar legislation at the provincial level, and other provinces are currently working toward the same goal.

We set up a website and initiated public petitions and letter writing campaigns. We worked alongside an army of advocates active on social media, including powerful allies like the prime minister, the leaders of all federal political parties, and the (former) national chief of the Assembly of First Nations. We aligned with leading advocacy agencies and legal scholars and made sure to listen to victims at every turn.

We followed court cases and called out the judges and lawyers who perpetuated the imbalances in our courtrooms. I repeatedly called on the Canadian Judicial Council, National Judicial Institute, and the Supreme Court of Canada to get behind the bill. Many Canadian journalists followed the bill, wrote about it, and set aside space in their publications and time on the air for radio and television interviews with me and the advocates I worked with.

We pulled out all the stops.

## SUCCESS, FINALLY

In 2019 I was able to secure the support—once again—of all political party leaders who together committed that whoever won the federal election would reintroduce my bill as their own and see it passed into law. That was a pivotal moment on the journey.

Bill C-337 became Bill C-5<sup>11</sup> and finally Bill C-3. Each time it had the unanimous support of the House of Commons, and each time it faced dilution and delay by a small, powerful group of senators. Admittedly, I was frustrated at my final Senate committee appearance in 2021, where I admonished those responsible for the bill's delay. That said, I was happy to hear the words of Justice Adele Kent, the chief judicial officer of the National Judicial Institute, who noted that my original bill instigated “valuable” conversations between the judiciary, legislators, and victims' rights groups<sup>12</sup> in the past four years. Further, more robust and reoccurring training on gender-based and sexual violence was developed as a result.

Happily, Bill C-3 passed and is now enshrined in Canadian law.<sup>13</sup>

## THE PATH FORWARD

As we cast our gaze forward and look to other jurisdictions to enact similar reforms, let me mention three points of encouragement for those in other jurisdictions willing to lead on similar reforms:

First, expect adversity and opposition from unexpected places. Long-held, deeply ingrained unconscious biases still run deep. This can be more complicated when facing an institution such as the judiciary, which in the Canadian context has minimal transparency.

Second, find your allies within and outside of government. Policy influencers can help sway key

decision makers in private, public champions can help educate people about the issue, and media attention will reach the masses.

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## “Be resilient and press on.”

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Finally, and most important, do not give up. In our case, we had the unanimous support of the House of Commons and still faced an uphill struggle. Be resilient and press on.

Despite the many challenges and ultimate success of the JUST Act, in retrospect it is the in-between moments that might have had the most impact. Consider that for four years every time the bill was talked about it was an opportunity to educate those listening, watching, or reading about gender-based and sexual violence. In the end, more people were reached than would have been if we had not faced roadblocks.

When I introduced the JUST Act in 2017, I never anticipated the journey that would follow. I am forever grateful to all those who stood up for the legislation, and to all those who will stand up and take on the mission in other corners of the world. It is the duty of policymakers to help ensure that the legislation that governs our institutions treats people with dignity and fairness. Victims must have confidence in our institutions, or they will not come forward.

Best of luck on the journey ahead.

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Photo credit: Yurii Yarema, Shutterstock

# Ukrainian NGO Efforts to Prevent and Combat Gender-Based Violence During the COVID-19 Pandemic

Yuliia Anosova and Alona Kryvuliak

The COVID-19 pandemic has exacerbated the problem of gender-based violence in Ukraine, as it has in every other country of the world. This problem has been widely recognized at the national level by state authorities in Ukraine,<sup>1</sup> who reported a twofold increase in the number of criminal cases of domestic violence in 2020, compared with 2019. This tendency was confirmed by nongovernmental organizations (NGOs)<sup>2</sup> in the country, who underlined not only an increase in cases of gender-based violence (GBV), including domestic violence, in Ukraine during the

COVID-19 pandemic but also deficiencies in the reaction by the state, especially during strict lockdowns.

## WHAT CHANGED: THE PERSPECTIVE OF A UKRAINIAN NGO WORKING WITH SURVIVORS OF GBV

The civil society organization (CSO) La Strada-Ukraine<sup>3</sup> has been working in the field of preventing and com-

batting gender-based violence and gender discrimination in Ukraine for more than 20 years. It runs the National Hotline for the Prevention of Domestic Violence, Human Trafficking, and Gender Discrimination,<sup>4</sup> which operates 24/7 and provides free psychological, legal, and informational consultations to survivors of domestic violence and other forms of GBV.

In the months following the introduction of a nationwide lockdown in Ukraine on March 12, 2020, there was an increase of up to 150 percent in calls to the hotline.<sup>5</sup> When the lockdown was lifted in June 2020, the number of calls dropped slightly. Still, it has not returned to its pre-pandemic level. There has also been a trend of substantial increases in calls during periods when the epidemiological situation in the country was worsening. Thus, during November and December 2020 and March 2021, when COVID-19 cases in Ukraine reached their peak, the number of calls to the hotline rose by 200 percent, compared with the pre-COVID period, even though there were no lockdowns as strict as the initial one in March 2020.

Strict quarantine measures in Ukraine have negatively affected the work of all institutions and services that provide support to survivors of GBV. There were reports of decreased efficiency in terms of police responses, as well as difficulties with access to courts, which were either closed or inaccessible due to stoppages to public transportation. Other victim-support services (including free legal-aid centers and centers for social services) were converted to working online. Some shelters were either closed or did not admit new survivors; others required a negative PCR test, which many survivors could not afford. In some cases, survivors could not get to shelters because public transportation was stopped.

The National Hotline for the Prevention of Domestic Violence, Human Trafficking, and Gender Discrimination also experienced difficulties during lockdowns.

Nevertheless, it managed to adjust its work to the new conditions. For example, many survivors complained that because they were living with an abuser during lockdown, they could not call for help by phone, since the abuser was listening. Thus, the hotline diversified its electronic channels of communication, allowing survivors to receive a consultation by sending a message to the hotline through social media platforms such as Messenger, Telegram, and Instagram.

Adjustments also had to be made with regard to the work of the hotline consultants. In particular, during strict lockdowns, their shifts increased in duration and their transportation to work was arranged by taxi when public transportation was stopped. The consultants also received online training and supervision, in particular with regard to the specific nature of their work under the new conditions of the pandemic. Thermometers, sanitizers, gloves, and masks were provided in the hotline's office.

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**“There were many cases in which survivors reported that even though their partners had never used violence in the past, there was a first episode of violence during the lockdown.”**

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## WHAT SURVIVORS HAVE TO SAY

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Being in a unique position of direct contact with survivors from all over Ukraine via the channels of the National Hotline for the Prevention of Domestic Violence, Human Trafficking, and Gender Discrimination, the CSO La Strada-Ukraine published a report<sup>6</sup> based on the results of a survey of survivors of domestic violence. The survey aimed to assess how their situation changed during the pandemic and how efficient the response of state authorities

was. Overall, 303 respondents participated in the survey. Most of them claimed that the situation became worse, as episodes of violence became more frequent and cruel, and the abusers became more aggressive, having lost their jobs and/or become more addicted to drugs and alcohol. There were many cases in which survivors reported that even though their partners had never used violence in the past, there was a first episode of violence during the lockdown—or other more serious forms of violence happened for the first time. Very often children were affected as well, since they were transferred to online learning and spent whole days at home, witnessing violence between parents or becoming direct victims themselves.

Another part of the survey concerned the response of the state institutions that were responsible for preventing and combatting domestic violence in Ukraine. Overall, there were no changes introduced at the legislative level aimed at adjusting the state response to GBV in Ukraine during the unprecedented conditions of the COVID-19 pandemic. Still, the problems reported by survivors were in many cases directly connected to the pandemic and the related restrictions that had been imposed.

The respondents had different experiences when applying to courts for restraining orders during lockdown. In some cases, they did not report any substantial problems. However, a few survivors claimed that their hearings were postponed (beyond 72 hours, which is the limit for hearings in such cases under Ukrainian law), or they had difficulties getting to court due to stoppages of public transportation.

As for the work of the police, many respondents complained that their cases were not treated seriously enough—that the police often sided with an offender or failed to conduct a proper risk assessment and subsequently refused to issue an emergency barring order. Sometimes the survivors themselves preferred not to report the incidents of violence to the police, as they were worried that the

offender would have nowhere to go during lockdown. In some cases, the police refused to issue an emergency barring order, claiming that they could not evict an abuser during quarantine.

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**“Most of the survivors reported that they did not seek treatment at medical facilities for injuries due to domestic violence.”**

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There were problems with the work of social services as well. In some regions, these services were closed; in others, the work was transferred online. Some respondents complained that the quality of social services was diminished when they were moved online, especially in the case of psychological counseling, where face-to-face communication provides a much better experience. Most of the survivors reported that they did not seek treatment at medical facilities for injuries due to domestic violence. Although most of the respondents claimed that they did not need medical assistance, some of them reported that they did not apply because they were either afraid of getting infected with COVID-19 while waiting at the hospital or because during lockdown it was recommended that people only go to hospitals in an emergency and they did not consider their case of violence that important. In this regard, it should also be noted that some of respondents admitted serious long-lasting effects of domestic violence on their psychological and physical health (such as neuroses, benign tumors, etc.), especially in the case of children.

## WHAT IS NEXT

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Based on the problems identified in the survey, a number of recommendations<sup>7</sup> to state authorities were formulated about how to act in a crisis situa-

tion like the COVID-19 pandemic, in order to protect the victims and those at risk of domestic violence, especially women and children. Special times require special measures, and hopefully the problems elicited by the COVID-19 pandemic will teach state authorities in the Ukraine and around the world this lesson.



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*Photo credit: A Muslim woman in the city of Makhachkala in Dagestan, Russia: SaidR, Shutterstock, March 2017*

# Harmful Traditional Practices in the North Caucasus, Russia

Julia Antonova

## OVERVIEW

In the North Caucasus region of Russia, violence against women and children is widespread. In this area, it is often more systematic and integrated into social and family structures, including in the form of harmful traditional practices such as honor killings and female genital mutilation (FGM) of girls.

Russia's national government has not provided any specific information about harmful traditional practices in the region, citing the absence of "concrete evidence of the violation of the rights of women and/

or girls in the North Caucasus." The government has indicated that "the conduct of procedural checks and preliminary investigations into crimes against women is carried out in a general manner." Contrary to the government's assertions, there is abundant and growing evidence of the prevalence of harmful practices in the North Caucasus that threaten the health and lives of thousands of women and girls every year. In addition, harmful traditional practices are often carried out in connection with other gender-based violence crimes.

## FEMALE GENITAL MUTILATION

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In 2016, we published the first contemporary report on the practice of FGM<sup>1</sup> in Russia, based on interviews conducted with 25 survivors in nine of Dagestan's high mountain districts, as well as with 17 religious, medical, and legal experts. The report found that FGM is mostly performed on girls before the age of 3, at home, with the use of regular household implements such as knives or shears. Practices vary depending on the village and ethnic group, with the most common types being incision and bloodletting and partial removal of the clitoris. Regardless of the type of FGM, the aim of the procedure is to control women's sexuality and behavior both before and after marriage.

In a second report in 2018,<sup>2</sup> we estimated the approximate minimum number of potential victims in Dagestan at 1,240 girls per year, based on statistics about births in the practicing districts, disaggregated by gender. The actual figure is likely to be higher, as anecdotal and expert accounts indicate that FGM is also practiced in other districts in the south of Dagestan, where no studies have been conducted to date.

While many of the respondents cited religion as the basis for the practice, it is more likely rooted in pre-Islamic customary law (adat). Currently, however, certain influential local Islamic leaders support the practice with reference to religious doctrine in the Shafi'i school of Sunni Islam. Social and ethnic traditions in practicing villages—which are by nature extremely remote and closed to outsiders—also play a strong role in perpetuating a practice that

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**“Regardless of the type of FGM, the aim of the procedure is to control women's sexuality and behavior both before and after marriage.”**

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reaffirms one's belonging to a particular community, in which women bear responsibility for preserving family honor and reputation.

The report generated media coverage due to incendiary comments made by a prominent imam, who not only confirmed the existence of the practice but also spoke of it as an efficient and harmless way of tamping down women's sexuality. In August 2016, following the publication of the report, a draft bill criminalizing FGM was introduced in the Duma. However, the bill was never passed, and neither federal nor regional authorities have made any efforts to eliminate the practice, except for highly superficial actions, such as a check carried out by the prosecutor's office in Dagestan following the report's publication. The prosecutor's office requested the personal information of the survivors interviewed for the report, which our organization Stichting Justice Initiative declined to disclose; subsequently, the prosecutor's office found “no evidence” of the practice.

In recent years, evidence has emerged of the “medicalization” of FGM in Russia, with the practice performed and even advertised in private medical clinics. In 2019, a 9-year old girl was taken by her father and stepmother to the private Aibolit clinic in Ingushetia in order for a doctor to perform FGM. The doctor is being prosecuted for causing “minor harm to health,” and the authorities refused to open criminal proceedings against the father and stepmother. In June 2020 the Federal Service for Surveillance in Healthcare (Roszdravnadzor) in Ingushetia replied that “all violations at the ‘Aibolit’ clinic had been eliminated” and no measures were being taken to annul its medical license. Moreover, it gave no assessment of the facts pointing to the performance of FGM at the clinic. It did not address whether Roszdravnadzor considers FGM an unacceptable practice in principle or whether it should be considered a serious legal violation. Thus, the government agency responsible for control over the safety of medical assistance could not guarantee that the





*Photo credit: An Ingush woman wearing a traditional costume and headdress walks by the Tkhaba-Yerdy temple in Ingushetia, Russia: Igor Stomakhin, Shutterstock, April 2015*

practice of FGM is unacceptable or that it should not be performed in medical establishments.

## HONOR KILLINGS

In the North Caucasus, especially in Chechnya, Dagestan, and Ingushetia, honor killings are still a common practice. The term refers to the commission of murder by close male relatives for the purposes of rehabilitating family honor as a result of real or suspected “misconduct” or “inappropriate” behavior. In our first report in 2019,<sup>3</sup> we documented 58 cases from various sources involving 73 victims from Chechnya, Dagestan, and Ingushetia between 2009 and 2020. The vast majority of the victims were women, mostly young, single, or divorced, between the ages of 20 and 30 years, and were the daughters, sisters, wives, nieces, or stepdaughters of the perpetrators.

An analysis of honor killings shows that these crimes are not based on traditions, customs (adat),

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**“The term refers to the commission of murder by close male relatives for the purposes of rehabilitating family honor as a result of real or suspected ‘misconduct’ or ‘inappropriate’ behavior.”**

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or Sharia law, but rather on self-righteous and willful maintenance of personal and family ambitions, reinforced and incited by public opinion, gossip, rumors, and slander. In 100 percent of the cases, the accused cited the immoral behavior of the victim as the motive for the crime. They believed that the murdered women (victims) had by their actions (immoral behavior, licentiousness) either insulted them personally or their relatives, acquaintances, family, or clan, or the “honor” of the family or clan, and that due to their “actions” the women must be punished.





*Photo credit: An Avar family in a small village in Dagestan, Russia, plow the field with a wooden plow: Kirill Skorobogatko, Shutterstock, May 2007*

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**“In 100 percent of the cases, the accused cited the immoral behavior of the victim as the motive for the crime.”**

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In our second report,<sup>4</sup> published in 2020, we analyzed 43 court criminal judgments of honor killings. It was the first comprehensive analysis of the scale and prevalence of such crimes in the region, including the perception of these crimes by the relatives and fellow villagers of those killed, their justifications for these murders of women, the problem of investigating and conducting criminal cases of honor killings in court, the prospects for changing the situation in the near future, and possible steps to eradicate the practice.

The study found that from 2008 to 2017, there were 33 cases, as a result of which a total of 39 people were killed, of whom 36 were women and three

were men. Of these, in Ingushetia there were two cases, in the Chechen Republic nine cases, and in the Republic of Dagestan 22 cases. Only 14 cases went to trial: In 13 cases the accused were convicted; in one they were acquitted. And this is only a small fraction of the identified problem. In practice, very few of these crimes receive publicity and become the subject of legal investigation and media attention.

In one out of every three cases, the court commuted the punishment for the accused, referring to “the immorality of the victim’s behavior as the reason for the crime.” The court considered that the (murdered) victims had, by their actions—“sexual promiscuity”—provoked the accused to commit murder. And those “actions” need not even be taken consensually. For example, in the North Caucasus, being a victim of sexual violence incurs a possibility that the victim will be subjected to honor-based violence. The first research clearly showed that “the overwhelming number of murders remained hidden and not revealed during the study. Hidden murders, mur-

ders that did not receive wide publicity, for which there was no criminal prosecution, no charges were brought, are practically not discussed by the respondents. In addition, there are practically no value judgments on their part in relation to those convicted of such crimes. In conditions of concealment of such crimes, unwillingness to discuss this topic not only with researchers, but also with close relatives, an ambiguous public assessment of such acts, it is extremely difficult to get a complete picture of honor killings in Russia.”

In order to change the situation, we recommend conducting further research on FGM and honor killings in the North Caucasus region and developing a comprehensive strategy to eliminate them, including education and awareness-raising campaigns, effective mechanisms for prosecuting and convicting the perpetrators, and systems of remedies and support services for victims. It’s also necessary to strengthen the capacity of law enforcement authorities to protect women and girls from violence, to ensure that the victims can report cases without having to fear retribution or stigma and can have access to legal, psychological, medical, and social support.

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Photo credit: Syrian refugees sit inside an abandoned construction site in Saida, Lebanon: Richard Juilliart, Shutterstock, October 2015

## Accessing Justice for Gender-Based Violence in Humanitarian Settings

Sarah B. Barnes

Gender-based violence (GBV) is a global epidemic rooted in gender inequality and an imbalance in power dynamics. All persons are at risk of violence because of their gender or perceived gender. Women and girls—including transgender women and girls—experience disproportionate gender-based violence, and this violence is even more prevalent among women and girls who have been forcibly displaced.<sup>1</sup>

Globally, 1 in 3 women experience violence during their lifetime.<sup>2</sup> In some humanitarian emergencies, however, more than 70 percent of women have experienced GBV, and an estimated 1 in 5 displaced wom-

en will experience sexual violence.<sup>3</sup> Due to conflict, persecution, and natural disasters, an estimated 68.5 million people have been displaced, including 25.4 million refugees, 3.1 million asylum seekers, and 40 million internally displaced persons.<sup>4</sup> The catastrophic number of displaced persons, coupled with the increased risk of GBV in these settings, threatens the lives of millions of women and girls, as well as global progress toward gender equity and empowerment.

Even in the best situations, accessing justice for survivors of violence is extremely difficult. In humanitarian settings, the process—from initial reporting to



full legal justice—is rife with obstacles. Displacement disrupts social support systems, removes connections to services and familiar legal avenues, and inserts added stress and economic insecurity, which are key drivers of violence. The threats to displaced persons take many forms, including intimate partner violence, rape as a weapon during conflict, early and forced marriage, and human trafficking.<sup>5</sup>

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**“Even when GBV is reported, the pandemic has created further challenges for authorities trying to identify and prosecute those accused.”**

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Internally displaced persons (IDPs)—individuals who are forced to flee their homes, but who do not cross an international border—are especially vulnerable. Unlike refugees, they are not eligible for protections under international law.<sup>6</sup> IDPs, often women and children, are also at a heightened risk of being trapped in areas of conflict or being used as weapons of war, compared to refugees.<sup>7</sup>

Studies show that the COVID-19 pandemic has exacerbated already high levels of GBV, and lockdowns and restrictions on movement have made reporting even more difficult.<sup>8</sup> Even when GBV is reported, the pandemic has created further challenges for authorities trying to identify and prosecute those accused.<sup>9</sup> While violence is often perpetrated by family members, traffickers, or other displaced persons, documentation also shows abuse from national migration administrations, peacekeeping forces, and humanitarian staff,<sup>10</sup> which further exacerbates the balance of power and distrust in protection systems.

## REPORTING AND LEGAL SYSTEMS

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Experts have always predicted that the rate of gender-based violence is much higher than what is

actually reported, due to the structural barriers survivors face when seeking justice. Intimate partner violence (IPV), often called domestic violence, is the most common form of gender-based violence, but it has been estimated that less than 40 percent of women who suffer from IPV seek help.<sup>11</sup> Prior to the pandemic, screening of refugees in Cox’s Bazar in Bangladesh suggested that 1 in 4 women and girls experienced GBV and 80 percent of those cases were IPV.<sup>12</sup> Since camps were locked down, reporting of violence has decreased by 50 percent. However, since lockdowns have made it even more difficult to report acts of violence, service providers are confident that IPV and other forms of gender-based violence are actually on the rise.<sup>13</sup> COVID-19 restrictions have further hindered access to legal services and justice for survivors. Lockdowns, quarantines, curfews, and other restrictions on movement have limited survivors’ access to police, legal aid, and social services, as well as counseling, safe shelters, medical treatment, and sexual and reproductive health services.<sup>14</sup> In the Democratic Republic of Congo, for example, authorities had to suspend an investigation into mass rape in South Kivu, as well as postpone trials of individuals charged with sexual violence crimes, due to COVID-19 restrictions.<sup>15</sup>

In addition to fear of their abuser(s), victims of GBV also often have a general distrust of the systems designed for their protection. For displaced populations, a general mistrust of legal systems, limited courts and legal staff, and difficulty navigating legal systems can leave survivors of violence with minimal to no means of legal justice.<sup>16</sup> For survivors with irregular legal or citizenship status, seeking justice through formal legal systems can be perilous, potentially resulting in detention or deportation.<sup>17</sup> Displaced communities also often create and place value on informal justice systems, where legal decisions are negotiated through community, religious, or family leaders. However, even in these informal systems, the rights and best interests of survivors are rarely upheld.<sup>18</sup>



Photo credit: South Sudanese refugees at Kule Refugee Camp in Gambella, Ethiopia: Richard Juilliant, Shutterstock, July 2014

## PROGRESS TOWARD GENDER EQUITY AND THE ELIMINATION OF VIOLENCE AGAINST WOMEN AND GIRLS

International declarations like the 1993 Declaration on the Elimination of Violence against Women and the 2000 Resolution on Women, Peace, and Security have helped secure positive steps forward for the world's women and girls, but more must be done within these frameworks to recognize both refugees and internally displaced persons. Other international guidelines, like the United Nations Population Fund's Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies, have worked to create concrete mechanisms to put these high-level commitments into action. However, implementation of these guidelines is notoriously difficult and has become increasingly challenging in the COVID-19 era. In order to truly capture the effects of the pandemic on the global increase of GBV, it is important to continue efforts to collect quantitative and qualitative data to illuminate these impacts,

especially for people in humanitarian crises.

Gender inequality is the root cause of gender-based violence. Without progress toward the ultimate goal of gender equity, women and girls will not be safe from violence. Repeatedly shining a light on the blatant inequity faced by women and girls is a first step toward the elimination of violence. In agreement with the Resolution on Women, Peace and Security, it is imperative to incorporate a gender perspective into peacekeeping operations, include adequate contract and accountability mechanisms to prevent sexual violence, and to promote gender diversification of the peacekeeping troops, military observers, and civilian police.<sup>19</sup>

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**“COVID-19 restrictions have further hindered access to legal services and justice for survivors.”**

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Investing in improved reporting and services for survivors of violence is also paramount to improving justice for survivors. Phone hotlines, text messaging, and videoconferencing can be useful tools to engage survivors, but in humanitarian emergency settings, access to phones and the internet may be limited or even restricted by local authorities. This forces humanitarian service providers to be even more innovative in their efforts to engage survivors. In Jordan, organizations have turned women-only safe spaces into private phone booths where Syrian refugees can confidentially call and speak to GBV counselors at any time without risk of exposure. In Lebanon, refugee women suggested holding GBV awareness-raising sessions in small, socially distanced groups.<sup>20</sup>

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**“Repeatedly shining a light on the blatant inequity faced by women and girls is a first step toward the elimination of violence.”**

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It is ultimately up to national and local governments, donors, international organizations, nongovernmental organizations, and communities to continue the focus on displaced populations during this devastating time of COVID-19.<sup>21</sup> There must be increased investment in innovative programming to improve the reporting of gender-based violence and the treatment and protection of survivors, as well as a revamping of the legal justice system and efforts to improve awareness of legal status and protections.

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Photo credit: CR Shelare, Shutterstock, April 2016

## Navigating Uncharted Waters: Curbing the Global Threat of Cyberviolence

Nicholas Metheny, Renu Sara Nargund, Flavia Bustreo and Felicia Knaul

It is undeniable that the proliferation of internet access and internet-connected mobile devices has improved health-care access and health outcomes for marginalized populations worldwide. Internet use has been associated with improved access to health care,<sup>1</sup> better health literacy,<sup>2</sup> and access to social norms that promote health equity.<sup>3</sup> While the fastest uptake of the internet is currently in Africa and Asia, its use in low- and middle-income countries is far from universal and is often stratified along longstanding class, ethnic, racial, and gender lines. It is therefore in these countries where the digital divide

between those with internet access and those without it is most stark, especially among adolescent girls and women.<sup>4</sup>

In addition to the digital divide, other disadvantages of increased connectivity are emerging. Among them, cyberviolence—antisocial, aggressive, and violent content and behaviors that include but are not limited to physical threats, sexual harassment, sex trolling,<sup>5</sup> doxing,<sup>6</sup> and nonconsensual pornography<sup>7</sup>—is an all-too-common and an increasingly dark side to the proliferation of internet use globally.

Cyberviolence affects all countries: It follows the spread of the internet in high-income countries and throughout the Global South. More than half of girls and young women ages 15 to 25 reported being the victims of cyberviolence, according to a Plan International report based on research involving more than 14,000 women from 22 countries.<sup>8</sup> Further, the risk is increasing with COVID-19. The pandemic has shifted numerous social, educational, and work-related activities online, further increasing internet use. Children’s increased online exposure is of particular concern, as cyber abuse typically begins early in life: It is estimated that 1 in 10 girls with access to the internet experience at least one form of cyberviolence before the age of 15.<sup>9</sup>

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**“Marginalized groups are often singled out for cyberviolence on the basis of their identities.”**

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Like other forms of violence, cyberviolence intersects with the social determinants of health—poverty, education, gender inequality, and other forms of interpersonal violence.<sup>10</sup> Those at the highest risk of cyberviolence are those who are already at an increased risk of physical and sexual violence that stems from an imbalance of power between the victim and perpetrator: women, girls, LGBTIQ<sup>11</sup> people, those with disabilities, and racial and ethnic minorities. Further, marginalized groups are often singled out for cyberviolence on the basis of their identities. More than 40 percent of respondents in the 22-country study who identified as LGBTIQ said they were harassed online for their sexual or gender identity; 37 percent of girls who belonged to racial or ethnic minorities were harassed due to their racial or ethnic identity; and 14 percent of those indicating they had a disability had been bullied or harassed online specifically because of their disability.<sup>12</sup>

Cyberviolence can lead to serious health consequences. Victims report trouble sleeping, fear for personal safety, reduced self-esteem, and feelings of powerlessness.<sup>13</sup> The suffering of survivors can lead to serious mental and physical health outcomes, including depression, anxiety, social isolation, suicidal ideation, and self-harm behaviors.<sup>14, 15, 16</sup>

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**“Governments have been slow to adopt and enforce regulations that curb online abuse and hold perpetrators accountable.”**

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Cyberviolence also blunts economic development both at an individual and country level—so much so that the United Nations has named it a significant reason for the growing gender digital divide.<sup>17</sup> According to one study, nearly half<sup>18</sup> of those experiencing cyberviolence reduced their online presence or left platforms altogether. This suggests that cyberviolence is exacerbating the already significant gap in online access and participation between men and women.

Though many have recognized that cyberviolence is widespread and harmful,<sup>19</sup> governments have been slow to adopt and enforce regulations that curb online abuse and hold perpetrators accountable. To do so requires a multipronged approach that includes elements of primary and secondary prevention. First, governments and the technology platforms on which the majority of cyberviolence takes place should work together to keep violent content aimed at individuals off of the internet. In the United States (where many major platforms’ headquarters are located) President Biden’s forthcoming Task Force on Online Abuse and Harassment is part of a wider effort to regulate the production and sharing of violent social media and other online content, as well as to streamline reporting processes for those who en-

counter this type of content.<sup>20</sup> The European Union is pushing for an independent safeguarding entity to monitor and coordinate the response to cyberviolence.<sup>21</sup> The entity would also serve as a regulatory body to which tech platforms would be obligated to report, and it would be given the authority to conduct external investigations of the causes of specific instances of cyberviolence and mandate companies to update mitigation techniques and strengthen content policies to help prevent these abuses from occurring.

In addition to fundamentally strengthening the frameworks and agencies that regulate the production of potentially harmful content, governments at all levels should consider passing legislation that holds perpetrators of cyberviolence accountable. Laws outlawing revenge porn have already been adopted across Europe and in 48 states in the United States.<sup>22</sup> Unfortunately, due to opposition by powerful lobbies and a misunderstanding<sup>23</sup> of the nature of online abuse, many of these laws are written so narrowly as to be nearly useless.<sup>24</sup> The majority of them are limited to situations in which the perpetrator acted with the intent to personally harm the victim. But as with sexual assault, the important question is not intent, but consent. According to a study by the Cyber Civil Rights Initiative, nearly 80 percent of perpetrators of nonconsensual pornography indicate they did not act with the intent to harm the victim.<sup>25</sup> However, this in no way lessens the harmful impact of their actions. While children may be somewhat better protected legally, due to the widespread adoption of child exploitation statutes,<sup>26</sup> gaps in coverage, especially for teenage victims, remain. The legal landscape is similar in low- and middle-income countries (LMICs), most of which do not have laws against cyberviolence. Some LMIC countries (e.g., the Philippines,<sup>27</sup> India,<sup>28</sup> and South Africa<sup>29</sup>) have made progress on legislating against specific acts of cyberviolence, but most LMICs lack the resources needed to enforce these laws. Globally, the functional limitations of existing laws in two areas—(1) the forms of cyberviolence that

are outlawed and (2) the restriction to perpetrators who are motivated by a personal desire to harm the victim—render the internet a breeding ground for cyberviolence.

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**“Countries must also consider whether marginalized groups may be disinclined to report cyberviolence due to other laws that may be hostile to their identities.”**

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Beyond resource availability, the effectiveness of cyberviolence laws greatly depends on the will and the ability to enforce them. According to one study of cyberviolence in India and the United States, police officers in both countries who were supposedly specially trained in cyberviolence enforcement were still unprepared to serve cyberviolence survivors or adequately pursue their perpetrators.<sup>30</sup> This speaks to a broader need to both better train those responsible for enforcing cyberviolence laws and ensure that survivors have access to strong support networks, including health-care providers, when they bring these crimes forward. Countries must also consider whether marginalized groups may be disinclined to report cyberviolence due to other laws that may be hostile to their identities. For instance, living in a country with regressive laws regarding homosexual behavior likely deters LGBTIQ victims of cyberviolence from reporting crimes committed against them. Existing at the intersection of other marginalized identities (e.g., racial, ethnic, ability, immigration status, religion) may similarly deter reporting.

Law enforcement must also confront the misconduct that occurs within its own ranks. Specific accountability measures for officer-perpetrated violence are imperative to the appropriate enforcement of cyberviolence laws. For example, the Interna-



tional Association of Chiefs of Police, a nonprofit association based in the United States, advocates for a zero-tolerance policy for police offenders.<sup>31</sup>

Despite the limitations and obstacles of legal reform, more laws against cyberviolence are needed. Just as pressure from international organizations, nongovernmental organizations, advocacy groups, and the media exists to outlaw marital rape in jurisdictions where it is not yet illegal,<sup>32</sup> similar pressure should be mounted to outlaw cyberviolence. These efforts must come with an understanding of, and safeguards against, the disproportionate and often unjust ways in which the criminal legal system has affected historically excluded communities, which in many cases has driven those communities to mistrust the police and criminal legal apparatus. As the threat to women, girls, and other historically excluded communities continues to grow, it will be ever more important to prevent cyberviolence through comprehensive laws and policy reforms centered on the experiences of survivors. Until that happens, the true potential of widespread internet connectivity will remain unrealized.

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*Photo Credit: A Middle Eastern woman and her children try to keep warm at the Idomeni refugee camp in Greece: Giannis Papanikos, Shutterstock, December 2015*

## Two Big Risks of Forced Migrations: Migrant Smuggling and Trafficking in Persons

Guadalupe Correa-Cabrera and Beatriz García Nice

Forced migration or forced displacement continues to relocate millions of people around the world. The category includes refugees, migrants, and internally displaced persons, and it is a direct result of persecution, conflict, other events seriously disturbing public order, and generalized human rights violations. The United Nations High Commissioner for Refugees estimates that more than 82.4 million people<sup>1</sup> are currently forcibly displaced—more than twice the number of people as a decade ago. Of those, women and girls make up 50 percent of displaced populations; they are, in general, at a higher risk of violence.

War and conflict remain the main causes of displacement on a global scale, and the displaced are increasingly female. Also, more women are migrating on their own rather than as dependents. Coming from the Middle East, more than 6 million Syrians are refugees or asylum seekers; women make up the majority of those displaced, representing an estimated 78 percent.<sup>2</sup> Likewise, the recent end of the US war in Afghanistan continues to pose tremendous risks for Afghani women. The new Taliban government so far represents a deterioration of the advancements in women's rights achieved in the last 20 years during the US occupation. Consequently, the present

situation places them at a higher risk of exploitation in the labor market, gender-based violence, torture, and forced marriage. In the Americas, displaced Venezuelans are only second to Syrians; women account for 52 percent of the total displaced population of more than 5 million.<sup>3</sup> Border crossings between Venezuela and Colombia have become increasingly dangerous; women and girls are particularly at risk. Criminal groups have taken over the territory, where women are now targets of their violent actions and forced recruitment. Women living in Central America's Northern Triangle,<sup>4</sup> for example, face poverty, gang violence, institutional weakness, and corruption that makes them targets for domestic violence, human trafficking, and various forms of gendered-based violence.

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**“However, while women migrants and asylum seekers are most vulnerable to trafficking rings or other organized crime groups, receptor countries’ immigration policies often exacerbate dire conditions for migrants’ livelihood.”**

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Gender-based violence is more pervasive in crisis scenarios where displaced women lack access to education, health services, security, lawful immigration status, and acceptance of changing gender norms. Receptor countries in Europe, as well as the United States and other high-income countries, are faced with the challenge of responding to a worldwide crisis where “the scale of displacement and the pre-existing political and economic tensions in the region [limit] the efficiency of the responses.”<sup>5</sup> Consequently, human smuggling services—managed or supported by criminal organizations (including the so-called “drug cartels”)—take advantage of migrants’ vulnerable situations, particularly in the case of women, who might become victims of

human trafficking or other violent crimes. However, while women migrants and asylum seekers are most vulnerable to trafficking rings or other organized crime groups, receptor countries’ immigration policies often exacerbate dire conditions for migrants’ livelihood.

Forced displacement is not gender neutral; instead it comes with key challenges for women and girls who are forced to migrate (or are forcefully displaced) worldwide. “The position of female migrants is different from that of male migrants in terms of legal migration channels, the sectors into which they migrate, the forms of abuse they suffer and the consequences thereof.”<sup>6</sup> Significant security risks are linked with two illicit activities: migrant smuggling and trafficking in persons. It is worth noting that these are two distinct phenomena, typified as two different crimes according to international law. These terms are often confused or used interchangeably. An essential distinction between them is that, “victims of trafficking are considered victims of a crime under international law; smuggled migrants are not—they pay smugglers to facilitate their movement.”<sup>7</sup> According to international law, “human trafficking is a crime involving the exploitation of an individual for the purposes of compelled labor or a commercial sex act through the use of force, fraud, or coercion. On the other hand, migrant smuggling occurs when a person voluntarily enters into an agreement with a smuggler to gain illegal entry into a foreign country and is moved across an international border.”<sup>8</sup>

One key concept in this distinction is “consent.” It is worth noting that the consent of a victim of human trafficking is irrelevant when any of the means set forth in the Trafficking in Persons Protocol have been used—i.e., “threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”





Photo Credit: Central American asylum seekers and their children being processed by Border Patrol agents in La Joya, Texas: Vic Hinterlang, Shutterstock, May 2021

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**“The position of female migrants is different from that of male migrants in terms of legal migration channels, the sectors into which they migrate, the forms of abuse they suffer and the consequences thereof.”**

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What is more, “The recruitment, transportation, transfer, [harboring] or receipt of a child<sup>9</sup> for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means” mentioned above.<sup>10</sup>

Even though we are talking about two clearly different phenomena, confusion arises for a number of reasons. When referring to certain other illicit activities—such as the drug trade or illicit arms trade—the terms “smuggling” and “trafficking” are frequently used interchangeably. What is more, it is

not always easy to separate one illicit activity from the other. Actually, when analyzing the effects and risks of forced migrations, the separation of these phenomena is often a gray area.

Most displaced migrants or refugees must hire the services of human smugglers and pay corrupt authorities in various countries in order to make it to their desired destinations in safer and more developed nations. Migrant smugglers frequently put displaced migrants and refugees at great risk since they are often linked—or even work in tandem—with human trafficking rings, drug trafficking organizations, kidnapping rings, and other organized crime groups. Migrant and refugee women and girls are comparatively more vulnerable than men, and they are the groups more likely to be subjected to violence along the migration routes. They are also frequent victims of human trafficking for the purpose of sexual exploitation.<sup>11</sup>

In order to provide effective solutions to these multilayered problems, a reckoning with the cultural

roots of gender-based violence is needed across the world. Such problems have to do mainly—but not exclusively—with South–North flows, where women who are facing extreme poverty, violence, and a lack of protection from the state attempt to reach more stable and richer countries that promise better opportunities and security for them. Awareness campaigns and activist efforts have come a long way in bringing attention to women’s vulnerable role in human displacement scenarios and susceptibility to extreme instances of gender-based violence, forced labor, and human trafficking rings.

But this is not enough. On an immediate level, transit and receptor countries must provide adequate protection for migrant flows, particularly for displaced women and girls against the rapacity of human smuggling networks and the deleteriousness of human trafficking rings along the world’s migrant routes (land, maritime, and aerial). This includes efforts to deter the collusion between criminal organizations and local authorities and the preemption of inhumane treatment against displaced populations. Moreover, adequate anti-trafficking legislation in each country, effective enforcement, and wider availability of protection services for victims are paramount actions needed to reduce security risks for forcefully displaced women and girls. The European Union just released its 2021–2025 strategy<sup>12</sup> to prevent trafficking, break criminal business models, and protect and empower victims. With half of identified victims in the EU being non-EU citizens, the strategy aims to reduce demand by working with national authorities and civil society organizations targeting high-risk sectors. It also addresses the use of online platforms for the recruitment and exploitation of victims and places special emphasis on international cooperation with countries of origin and transit. In North Africa and the Middle East, Egypt<sup>13</sup> is making important strides in addressing human trafficking and related crimes, with a comprehensive approach. The country has inaugurated specialized shelters for trafficked victims, increased prosecution, expanded training, and rolled out public awareness campaigns.

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**“Overall, there is a need for close cooperation between refugee-sending countries, transit countries, and destination countries, in order to successfully face the enormous human challenges of forced migrations and address the root causes of such displacements.”**

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Likewise, it is fundamental to have reliable data to support and expand policies that promote gender equality and provide women with economic and social opportunities. In Latin America, for example, a region where women are highly susceptible to these types of crimes, underreporting gives way to a normative and institutional vacuum, minimizing efforts and rendering them obsolete. To counter this, projects such as Infosegura in Central America, which is dedicated to providing gender-based violence data, have proven pivotal in allowing authorities to develop solutions based on reliable information.

National efforts to dismantle human smuggling networks, combat human trafficking, and eradicate corruption, such as Operation Sentinel<sup>14</sup> and Joint Task Force Alpha<sup>15</sup> in the United States are excellent initiatives, and their reach should be extended to regional and perhaps even global levels. More specifically, authorities in the various affected countries should collaborate closely to strengthen protections for displaced women and girls and deter the activities of migrant smugglers and human traffickers. Inadequate anti-trafficking legislation needs to be improved at the country level to raise these policies to international standards.<sup>16</sup>

Overall, there is a need for close cooperation between refugee-sending countries, transit countries,



and destination countries, in order to successfully face the enormous human challenges of forced migrations and address the root causes of such displacements. Due to the global complexity of trafficking and smuggling rings, international law enforcement cooperation is fundamental to conducting more investigations into the corruption and violence in certain areas, the illicit roles of state and local actors, and the configuration of human smuggling networks and human trafficking rings in their own territories. Most important, these efforts must lead to improved accountability by government authorities and civil society organizations regionally, while assuring the safety and protection of women along migration routes.

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# Leaving No One Behind

## Ensuring Women's Access to Quality Multisectoral GBV Services: Experience from Zimbabwe

Verena D. Bruno and Julie Diallo

### INTRODUCTION

This short piece looks at the status of violence against women and girls (VAWG) in East and Southern Africa. It examines the role of ensuring the availability of quality multisectoral gender-based violence (GBV) services in Southern Africa to prevent VAWG, mitigate its impact, and stop the reoccurrence of violence. Finally, it presents an innovative model for delivering quality mobile multisectoral GBV services

to women and girls living in remote areas: the Mobile One Stop Centre model introduced in Zimbabwe. This article recognizes that the availability of quality multisectoral GBV services is a crucial part of achieving the United Nations' Sustainable Development Goal 5,<sup>1</sup> as well as realizing the aspirations of the African Union's Agenda 2063: The Africa We Want.<sup>2</sup>



## THE STATUS OF GENDER-BASED VIOLENCE IN EAST AND SOUTHERN AFRICA

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Violence against women and girls is one of the most widespread human rights violations in the world. Looking at the African continent in 2018, the World Health Organization (WHO) estimated that one out of three African women will experience either physical and/or sexual intimate partner violence or nonpartner sexual violence in their lifetime. According to WHO, sub-Saharan Africa and Southern Asia are the two regions with the highest prevalence of VAWG.<sup>3</sup> When we look at age disaggregation, we see that African adolescent girls and young women are disproportionately affected by gender-based violence. At the global level, 1 in 20 adolescent girls ages 15 to 19—approximately 13 million girls—have experienced forced sex.<sup>4</sup> There is a high prevalence of physical and sexual intimate partner violence among adolescent girls and young women in East and Southern Africa. To some extent, this high prevalence can be correlated with forced first sexual encounters.

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**“On average, only 1 in 10 women exposed to violence sought any help.”**

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The COVID-19 pandemic shed light on this shadow pandemic. Globally, during the COVID-19 pandemic, there has been a considerable increase in reported cases of gender-based violence,<sup>5</sup> and it is likely that this is just the tip of the iceberg. Research shows that women, and especially adolescent girls and young women, rarely report the violence that they have experienced. On average, according to data, only 1 in 10 women exposed to violence have sought any help. And of those who did, only a small percentage sought help from formal authorities or service providers, such as police, lawyers, religious leaders, or health professionals.<sup>6</sup> In most countries

with available data, less than 10 percent of adolescent girls ages 15 to 19 who experienced forced sex sought professional help.<sup>7</sup>

## THE ROLE OF QUALITY MULTISECTORAL GBV SERVICES

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GBV services refers to a wide range of services, including health, police, legal, and social services provided to survivors of gender-based violence. The Essential Services Package for Women and Girls Subject to Violence<sup>8</sup> is a series of guidance tools that aims to provide greater access to a coordinated set of essential and quality multisectoral services for women and girls who have experienced GBV or are at risk of GBV. The provision and coordination of essential health, police, justice, and social services can significantly mitigate the consequences of violence on survivors' well-being, health, and safety. It also contributes to survivors' recovery and helps stop violence from recurring. The implementation of the Essential Services Package can diminish the impact of violence on women, girls, families, and communities in terms of productivity, school achievement, public policies, and budget.

In East and Southern Africa, services are mostly available in urban areas, such as in cities at provincial and district levels. Access for women and girls living in rural and remote areas is constrained due to the lack of transport and often the economic means to travel. The latest data from the Global Network of Women's Shelters<sup>9</sup> shows that there is a critical need for increased resources and capacity for existing shelters, as well as a need for more shelters to respond to the needs of women, girls, and children survivors and/or those who are at risk of violence. An assessment by the Office of the United Nations High Commissioner for Human Rights<sup>10</sup> pointed out the limited and in some cases nearly nonexistent availability of psychosocial and/or counseling ser-

VICES for women survivors of violence in countries in East and Southern Africa. It is well recognized that crisis counseling and longer-term counseling are essential in assisting survivors of GBV with feeling safe, processing their experience, alleviating their feelings of guilt and shame, and reaffirming their rights to live free from violence.

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**“Women’s access to justice has been negatively affected by the shutdown of courts.”**

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There is limited recent data on the status of GBV services in East and Southern Africa. Quality data that looks at the availability, accessibility, acceptability, and quality of GBV services<sup>11</sup> is essential for informing the delivery of quality multisectoral services.

The COVID-19 pandemic has exacerbated the existing challenges to delivering quality GBV services and contributed to the further scarcity of services. During the pandemic, the health sector faced limitations to its ability to effectively handle GBV cases and disclosures. In relation to access to justice, reports have shown that since the onset of the pandemic, women’s access to justice has been negatively affected by the shutdown of courts. In some countries, it was reported that courts were closed or operating at reduced hours, resulting in delays in processing cases, further contributing to the deprioritization of GBV cases. In countries where e-justice services were made available, women and young women of lower socioeconomic status were constrained by factors such as limited information and communications technology literacy and/or not owning or having access to a phone or other connected device.

The mobile gender gap exacerbated the ability of women and girls to access GBV services. According

to GSMA’s 2020 report on the mobile gender gap,<sup>12</sup> in sub-Saharan Africa there is a 13 percent gender gap in mobile ownership, and there were 74 million unconnected women. It is critical to remember that many women do not have their own phones or are not in a position to be in a private space and speak freely and safely. However, in some contexts during the pandemic, we saw a shift in reporting from the use of telephone hotlines to WhatsApp, Chat Box and other social media communications. These challenges and new forms of reporting pushed providers of GBV services to develop innovative models of reaching out to women and girls and providing both remote and mobile GBV services.

### **CASE STUDY: THE MOBILE ONE STOP CENTRE BRINGING GBV SERVICES TO WOMEN AND GIRLS IN REMOTE AREAS IN ZIMBABWE**

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Building on the guidance of the Essential Services Package for delivering quality multisectoral GBV services, the United Nations Population Fund (UNFPA) Zimbabwe office and partners introduced the Mobile One Stop Centre (MOSC) model in an effort to ensure timely access to GBV services in remote and hard to reach areas, within a multihazard humanitarian context. This model was developed and implemented under two flagship programs, the European Union–funded Spotlight Initiative to Prevent VAWG and the World Bank–funded Zimbabwe Idai Recovery Project (ZIRP). The MOSC model provides mobile multisectoral quality GBV services such as health, police, psychosocial, and legal support in remote and hard to reach areas of Zimbabwe that have been affected by drought or Cyclone Idai. It is a one stop center on wheels.

The MOSC model addresses some of the key challenges faced by women and girls, while trying to respond to the deprioritization of GBV services

in rural and remote areas. Women and girls living in remote areas may be confronted with significant distances to travel to access static services, as well as a lack of available transportation and/or a lack of economic means to pay the expenses related to transportation. The MOSC model reduces the distance between survivors and these services, by bringing the services closer to their homes.

## MOSC IN PRACTICE: HOW DOES IT WORK?

The MOSC model is based on the principles of flexibility of service delivery and community engagement. As such, MOSC teams are deployed on the basis of evolving needs and identified GBV hotspots within specific communities, such as community boreholes, food distribution points, and camps for internally displaced people.

The MOSC is made of multidisciplinary teams from the health, police, psychosocial, and legal support sectors. Doctors, nurses, and paramedical staff are trained on the clinical management of rape,<sup>13</sup> survivor-centered approaches, and psychological first aid. To support reporting of GBV cases, the MOSC teams work in close collaboration with behavior change facilitators and village health workers to support the identification of GBV cases at the community level, and to ensure timely referral between services in GBV hotspots, such as water and food distribution points. This assistance is part of the MOSC GBV surveillance outreach sessions.

The MOSC model has demonstrated its effectiveness in terms of service uptake in emergencies and humanitarian contexts, such as during Cyclone Idai and during the COVID-19 lockdowns, where the model was strengthened through the provision of a shuttle service to assist survivors' referrals to higher levels of care. Additionally, behavior change facilitators were equipped with airtime and data to ensure

continuous two-way communication with mobile teams, as well as with GBV hotlines, to enhance timely and quality referral. Since the introduction of the model, MOSCs were established in 24 out of 65 districts<sup>14</sup> across all 10 provinces of Zimbabwe, reaching a total of 30,406 survivors.<sup>15</sup>

## TESTIMONY

"I was scared of moving around due to the lockdown. But one day I made up my mind and got up very early and waited anxiously for the Mobile One Stop Centre team. When they arrived, I was soon assisted by the welcoming counselors. I managed to get clinical care and was given post-exposure prophylaxis (PEP). I was also taken to the shelter for safety while the Victim Friendly Unit officer went to arrest my uncle. If the mobile One Stop Centre had not come, I would have missed the opportunity to get PEP, and to be protected. At the shelter, I feel very safe. The court processes are going on, and I am hopeful."

—Faith, a sexual and gender-based violence survivor who received support at a Mobile One Stop Centre

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# Judging with a Gender Perspective to Guarantee Access to Justice for Women and Girls

EQUIS: Justicia para las Mujeres A.C. (EQUIS)<sup>1</sup>

## I. JUDGING WITH A GENDER PERSPECTIVE

Mexico has one of the highest rates of violence against women in Latin America: Almost 7 out of 10 women have suffered from it.<sup>2</sup> However, few women get access to the justice system, partly because of persistent social, cultural, and economic barriers, but also largely because of mistrust in Mexico's justice institutions<sup>3</sup>—due to high rates of impunity in the

country. Between 2014 and 2018, only 5 out of every 100 cases in which women denounced an assaulter resulted in a sentence.<sup>4</sup>

Unfortunately, not even the cases the judicial powers receive are guaranteed a fair sentence. At EQUIS Justicia para las Mujeres (EQUIS), we have observed actions and judicial decisions based on prejudices and gender stereotypes that contribute to invisibilization, impunity, and the persistence of violence over

long periods of time—in part because of the lack of training of jurisdictional personnel. For example, an analysis of 100 sentences in 2017 by the Red por la Ciudadanización de la Justicia (Citizen Network for Open Justice) found that 85 percent of judges did not take into account how power and gender relations influenced their cases; 69 percent failed to assess the victim’s risk and to dictate protection orders; 79 percent did not respect the norms of human rights protections; and 86 percent did not dictate measures to repair the damage.<sup>5</sup>

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**“Unfortunately, not even the cases the judicial powers receive are guaranteed a fair sentence.”**

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For women, the possibility of accessing justice and having their rights restored is almost nonexistent, since they are frequently assisted by public servants who lack comprehensive training on gender and intersectional perspectives (as established by specialized national and international organizations).

The obligation to judge with a gender perspective is not new; it is found in several binding international instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>6</sup> and the Convention of Belém do Pará,<sup>7</sup> both of which establish the obligation to guarantee women legal protection of their rights with competent courts and adequate measures to eradicate discrimination. In addition, these conventions compel states to have fair and effective legal procedures for women that include protection measures, a timely trial, and effective access to such procedures, as well as other rights. Mexico’s Supreme Court, particularly since the 2011 reform,<sup>8</sup> has been developing a solid jurisprudence line in order to establish the obligation of judging with a gender perspective, paying special attention to the conditions women face in judicial processes. Through various judicial resolutions, the court established an obligation to

apply such methodology in all cases, with the purpose of eliminating stereotypes, verifying situations of inequality of power, and meeting the needs of groups in special situations of vulnerability.<sup>9</sup>

## II. CRITERIA FOR THE SUITABILITY OF TRAINING

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One of the main challenges that Mexico faces in fulfilling the aforementioned obligations is that judicial powers do not regard the training as essential.

In 2017, EQUIS found that 34 percent of judicial trainings in Mexico were, in reality, academic diffusion events (conferences, forums, presentations); 75 percent had a short duration; 36 percent covered general content or content unrelated to the matter; 37 percent were taught by personnel without the required expertise; and none included an evaluation strategy to verify if the training had had a significant impact on the administration of justice.<sup>10</sup>

Based on these results, EQUIS developed six minimum suitability standards required to move judicial training processes away from institutional simulation, in order to achieve adequate results and guarantee access to justice for all people:

- a. Implement activities that represent true teaching-learning processes (events should not be limited to conferences or lectures).
- b. Make enough time to address all subjects contemplated in the training program, while digging deeper into questions that are more complex or relevant.
- c. The content shared during the training must be adequate, allowing judges to offer judicial attention according to the highest national and international standards regarding human rights and gender.

d. Training must be given by specialists who possess extensive knowledge and experience in the matter, as well as a deep understanding of the tasks judges perform daily. Additionally, these specialists must have teaching experience in the judicial field.

e. Contemplate a strategy of continuous and rigorous evaluation, based on excellence and the objective standards previously established.

f. The training programs must be designed to address the specific duties of magistrates, judges, secretaries, officials, administrative employees, and other judicial assistants, in order to make possible for each judicial officer to improve access to justice for everybody.

### III. EQUIS'S EXPERIENCE IN JUDICIAL TRAINING

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In line with the standards developed, since 2013 EQUIS has facilitated training processes aimed at different state courts in Mexico. During this time, we have asked ourselves, has the training really changed the way women receive justice?

Alarmingly, we have found that there are multiple states where millions of pesos have been invested in judicial training, yet the sentences issued by their courts are still discriminatory and allow or protect violent acts against women. In this regard, it is necessary to clearly determine whether the training is being effective enough—and what other measures must be taken to further ensure its effectiveness.

Therefore, we've developed comprehensive training processes that contain a gender and human rights approach and an intersectional perspective. Such training also contains pedagogical tools and citizen participation to help match the needs of the participants with the justice needs of women. We have provided judicial training to more than 10 states in the country, including Nuevo León, Guanajuato,

Puebla, Jalisco, Quintana Roo, Oaxaca, Coahuila, Tlaxcala, Mexico City, and Yucatán.

In the case of Poder Judicial del Estado de Nuevo León (Judicial Power of Nuevo León), EQUIS has facilitated workshops and open spaces for dialogue about judging with a gender perspective, in order to educate judicial officials about gender-based violence and discrimination against women. During the workshops, we have discussed: (1) gender-based violence against women, its consequences, modalities, and areas in which it takes place, as well as the existent stereotypes about women who suffer violence, (2) the obligation of enhanced due diligence in cases of gender-based violence, (3) the obligation to judge and make comprehensive assessments of evidence and reparation measures with a gender perspective, and (4) the need to reinforce a preventive approach to femicidal violence, through the issuance and monitoring of protection orders<sup>11</sup> as mechanisms of quick, simple, and comprehensive action to specifically protect women at risk of gender violence.

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**“Training of jurisdictional and administrative personnel in the country’s courts should no longer consist of isolated events and activities.”**

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### IV. WHAT IS NEXT?

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To accomplish justice in equality and nondiscrimination, we need trained and updated personnel who fulfill their obligation to judge using a gender and human rights perspective, in order to guarantee access to justice for all women.



Training of jurisdictional and administrative personnel in the country's courts should no longer consist of isolated events and activities. Training on judging with a gender perspective means responding to the obligations and recommendations of national and international organizations. It implies that institutions must designate enough resources to personnel training, apply suitability standards throughout the process of planning and executing the training, and monitor its impact.

It is also necessary to establish mechanisms that evaluate the training results. These mechanisms must be built in collaboration with civil society organizations that face the challenges of the lack of justice in Mexico. The opportunity of opening justice to citizens is key for institutions in order to identify, through the voices of women and civil society, the areas of opportunity in the training of judges.

An example of the latter is Oaxaca, where EQUIS, together with local organizations and the state judiciary, promoted the foundation of the Citizen Consultative Council, which aims to issue observations and recommendations about the judicial training process. This includes the definition of important indicators, such as the analysis of sentences, that will allow us to try to make gender perspectives and intersectionality a fundamental part of the legal rationale in all cases.

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Photo Credit: Women demonstrate for the end of rape culture in Goiânia, Brazil: Angela Macario, Shutterstock, May 2016

## Why the Rule of Law Is Not Enough

Dabney P. Evans

In May 2021 the Brazilian Federal Register announced that all people seeking services for relationship violence would receive a risk assessment.<sup>1</sup>

The use of risk assessments—tools designed to predict reassault or femicide in cases of domestic or intimate partner violence (IPV)—is an important step in advancing the implementation of federal violence against women (VAW) laws. Such practices in Brazil are built on the existing 2006 Maria da Penha Law, and 2015 anti-femicide legislation that criminalized domestic violence and gender-based killing.<sup>2</sup> Yet, while the rule of law is necessary, it is insufficient to ensure a world free from relationship violence.

According to the World Bank, at least 155 countries have passed laws on domestic violence,<sup>3</sup> yet one in three women experience physical, sexual, or psychological violence during their lifetimes.<sup>4</sup> While these laws may be well-intentioned, their consequences may be unexpected. In a 2014 study conducted in Nicaragua, women believed that the passage of Law 779, a progressive anti-femicide law passed in 2012, actually led to an increase in femicide;<sup>5</sup> this was in part because it also contained new carceral punishments for domestic violence. Knowing that they would face carceral consequences for domestic violence as well as femicide, some men may have felt disincentivized to limit their abusive behavior toward their partner—and thus committed even more ex-

treme acts of violence that led to death instead. VAW laws are designed to protect people from violence, but their mere existence does not solve the problem. The success of any law is dependent on society's willingness to respect it. In this sense, VAW laws are like stop signs. They can only prevent violence if people believe that the consequences of not obeying the sign will cause them more harm than good. In Nicaragua, study participants did not believe that Law 779 did that. In fact, quite the opposite. They believed that the law made the violence worse. If someone speeds through an intersection without stopping, they may cause a car accident. But if they do, it's not the fault of the stop sign. Unless laws and policies are fully implemented, they may actually exacerbate violence.

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In a 2016 study of Brazilian women attending state-run health clinics, all participants were aware of at least one federal VAW law.<sup>6</sup> Yet they expressed widespread lack of trust in the government, and viewed the legal sector as ineffective. They felt VAW laws either exacerbated violence or otherwise had little impact on the lives of people experiencing it. One participant pointed out that the possible benefits and protections granted by VAW laws can be completely undermined, and even reversed, by the legal sector's inability to ensure full compliance with these laws, including the consequences for perpetrators. This generalized lack of trust in the government manifested as a lack of confidence in VAW laws and was a major barrier for women seeking services through two pathways to prevent and respond to violence: the health and legal sectors respectively. Numerous participants recounted stories about the ways that women were further traumatized by ineffective interactions with health and legal sector actors—or worse, abused or mur-

dered by their partners in retaliation. One participant went so far as to say that the possibility of such retaliation leads women to “fear the law more than the abusers.”

Such attitudes may only be complicated by unclear data relating to the effects of VAW laws. A study comparing Brazilian data from before and after the enactment of the Maria da Penha Law, Brazil's first federal VAW legislation, reported that physical violence significantly increased after the passage of the law. In 2003, 11 percent of Brazilian women reported experiencing violence; by 2013, seven years after the Maria da Penha Law, this figure had increased to 53.5 percent.<sup>7</sup> At first glance, this data seems to suggest that the law somehow contributed to increased violence. Yet the reasons for this change are uncertain. It is possible that the actual violence increased, but the results could also reflect increased awareness and reporting of violence, or a combination of both factors. Without further exploration and contextualization, the effects of VAW laws will not be fully understood.

And while VAW laws are intended to directly address violence, other laws and policies may also affect its occurrence. While the world has faced the COVID-19 pandemic, the “shadow pandemic” of relationship violence has also raged on.<sup>8</sup> Shelter-in-place policies were widely believed to put those experiencing relationship violence at increased risk; numerous studies since the pandemic began have found that speculation to be well grounded.<sup>9</sup>

Whether before or during the pandemic, all of us live in a world where violence is unacceptably normalized; adverse childhood experiences, comu-

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**“While the world has faced the COVID-19 pandemic, the 'shadow pandemic' of relationship violence has also raged on.”**

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nity violence, and other social comorbidities are risk factors for both experiencing and perpetrating violence.<sup>10</sup> Deeply embedded systems of oppression have made themselves apparent, as evidenced by acts of police violence and domestic terrorism in the United States—and elsewhere around the world. But as troubling as these occurrences have been, we have reason for hope. If COVID-19 was the pressure cooker, the world has been primed for explosive change.

The practice of risk assessment for violence in Brazil is one such change, and it's grounded in more than two decades of feminist activism, the adoption of laws, and scientific research about risk assessment tools and how laws effect the lived experiences of people facing violence. We have successfully identified risk factors for experiencing IPV<sup>11</sup> and justifiably centered survivors in our work. The Danger Assessment, a tool validated to predict reassault, as well as attempted and completed femicide, has been translated and cross-culturally adapted for use in Brazil. The vast majority of women participating in a 2020 study assessing the face validity of a translated and cross-culturally adapted version of the Danger Assessment for Brazil found the instrument easy to comprehend, underscoring that people experiencing violence are primed and ready for laws to effect change in their lives.

Less work has been done with regard to perpetrators, but we are learning that they too have experiences of trauma that contribute to their interactions with their intimate partners.<sup>12</sup> Yet most of our approaches with perpetrators have been punitive or carceral in nature. In the wake of COVID-19 we must explore new methods of accountability grounded in transformative justice. We must ask ourselves what an abolitionist approach to IPV prevention and response would look like. And we must do so because the root cause of relationship violence is not individual perpetrators.

The root causes are systems of oppression, racism, sexism, and all of the -isms.<sup>13</sup> As the poet Audre Lorde taught us, “There is no hierarchy of oppression.”<sup>14</sup>

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**“In the wake of COVID-19  
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So, we must consider new means of individual and societal accountability, including ways to dismantle harmful gender norms. This future is difficult to imagine because it is so different from the world we know today. But it is costing us too much not to act. And if COVID has taught us anything, it is that the world can change overnight. Through the rule of law, combined with other strategies for governance and justice, we can bring forth the change necessary to solve the wicked problem of gender-based violence.

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Photo credit: Afghans living in India gathered at the United Nations High Commissioner for Refugees office in New Delhi to demand refugee status: Pradeep Gaur, Shutterstock, August 2021

# As an International Community, We Cannot Turn Our Backs on the Women and Children of Afghanistan

Natalie Gonnella-Platts

Afghan women's and children's rights, agency, and well-being were eroded overnight when the Taliban seized power in August 2021.

As in nearly all conflicts and humanitarian crises, it is the women and children who now shoulder the burden of most of the fallout in Afghanistan, including increased instances of gender-based violence. This is particularly sad because Afghan women achieved more during the previous 20 years than most women's movements did across many more decades.

Afghan women were an important catalyst for progress—for themselves, their communities, and their country.

Critical pillars in the pursuit of democracy, security, and development, some of the most courageous women in the country have been threatened, assaulted, and killed by the Taliban for making the very impact that was previously celebrated by the international community.



Gender-based violence was already endemic across Afghanistan, with limited recourse and access to justice for survivors, despite protections outlined in national legislation.<sup>1</sup> Even before the COVID-19 pandemic and the Taliban takeover, a majority of Afghan women experienced some form of physical, psychological, or sexual abuse, according to various studies, with underreporting also a serious challenge.<sup>2</sup> Most often, the perpetrators were reported by survivors to be close contacts—male relatives or spouses.<sup>3</sup>

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**“The international community still has a role to play in protecting the rights and well-being of Afghan women and children and other vulnerable populations.”**

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Today, the Taliban and other perverse actors like the Islamic State Khorasan (ISIS-K) have already heightened the prevalence of the issue significantly—strategically leveraging violence against women and girls, as well as their exclusion from society, as a cornerstone of state-sponsored oppression.

Despite the recent US withdrawal from Afghanistan, the international community still has a role to play in protecting the rights and well-being of Afghan women and children and other vulnerable populations. Actions taken in the months and years ahead not only have the capacity to improve millions of lives but also to demonstrate the authenticity of the world’s commitment to confronting injustice and gender-based violence everywhere.

Afghanistan ranked as the worst country in the world for women, based on the 2021 Women, Peace, and Security Index from Georgetown University’s Institute for Women, Peace, and Security.<sup>4</sup> Afghanistan’s relative and absolute score in 2021

was nearly 30 percent lower than it was in 2017, in part because of worsening security conditions.

Under the Taliban, women and girls live in daily fear of assault and even death for walking without a male escort in public or for leaving home without the cover of a burka. Unmarried women and young girls are also being forced into marriage and sexually abused, according to numerous accounts documented in the media and via personal testimonies received by advocates and organizations like the George W. Bush Institute.<sup>5, 6, 7</sup>

Women have been excluded from employment, and adolescent girls and young women have been prevented from attending secondary and tertiary schools in most provinces. Those who have protested the restriction of their rights and agency in this way—including journalists documenting the struggle<sup>8</sup>—have been harassed and assaulted.<sup>9</sup>

Women’s shelters have been shuttered, and survivors of violence have been forced back into homes with their abusers.<sup>10, 11</sup>

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**“Women’s rights advocates and other at-risk Afghans have been unable to secure safe passage out of Afghanistan.”**

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Female judges and lawyers who were instrumental in the advancement of access to justice and anti-gender-based violence efforts are being hunted by the very criminals whom they worked to put away for crimes against women and children.<sup>12</sup> As are female doctors who helped survivors of domestic violence, including women whose husbands set them on fire or threw acid on them.<sup>13</sup>

Meanwhile, women’s rights advocates and other at-risk Afghans have been unable to secure safe

passage out of Afghanistan. There is virtually no access to asylum in bordering countries. And serious barriers persist to obtaining a visa to escape to other regions, because the United States and other allies no longer provide consular services within Afghanistan. Advocates seeking safety have been beaten and killed.

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## “Afghan refugees face the harsh challenge of survival with limited access to resources or protection.”

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Moreover, since the Taliban took over full control of Afghanistan in August, scarcities of food, water, and basic health care, as well as the likelihood of imminent economic collapse, have made the struggle of daily life extraordinarily difficult for ordinary Afghans. Families—desperate to survive in the midst of economic collapse and famine—have resorted to selling their daughters. Some are barely toddlers.

Those women who miraculously and courageously make it out face further risks of gender-based violence and inequity.

Idling in third countries for months and even years awaiting visa processing and resettlement, Afghan refugees face the harsh challenge of survival with limited access to resources or protection. And, in an already difficult environment, Afghans face further challenges to their well-being as a liquidity crisis has made access to personal assets impossible. Amid extremely uncertain immigration situations, limited financial means, and without access to basic support, Afghan women and children are forced to confront the risk of further exploitation and revictimization by traffickers, organized crime syndicates, and other nefarious actors.

Additionally, Afghan mothers who give birth in third countries face the very real possibility that their children will be denied their universal right to identity and nationality, further restricting future access to justice and protection of their rights under the law. While gender-based violence in Afghanistan was a serious challenge before August 2021, the Taliban’s brutality and the current humanitarian crisis have already exacerbated the issue significantly. Though the withdrawal may be complete, the international community shoulders a responsibility to protect the status and well-being of the Afghan people, especially the most vulnerable.

The United States and other NATO allies should expand the pathways to safety for at-risk women and other marginalized populations. For example, in the United States, the Biden administration should use executive authority to implement a special parole program for at-risk Afghans.

Donor countries and private-sector institutions must increase support for humanitarian aid into Afghanistan, particularly to meet acute food and medical needs for those most at risk—often women and children.

Intergovernmental organizations should work closely with regional nations to ensure that borders remain open, asylum is available, and refugee conventions are followed.

Public-private partnerships must mobilize to support at-risk Afghans in third countries awaiting final resettlement in places like the United States, Europe, and elsewhere, especially those most at risk of exploitation and gender-based violence in the future.

Resettlement efforts should also include gender-specific responses to integration, such as information advising women of their rights and

agency under the law and how to access social services and trauma support. These resources must be culturally competent and available across multiple languages.

Most important, the United Nations must uphold the protection of Afghan women and children's individual rights, well-being, and agency in keeping with its own international human rights guidelines. And as an international community, we must all ensure that those most impacted by the Taliban's abuse are represented and heard where it matters most. From social media to decision-making forums, we all have a role to play in elevating the voices, strength, and experiences of at-risk Afghans.

For some, the status of women and children in Afghanistan may seem like an isolated problem—an extreme example of gender-based violence and injustice, horribly unfortunate, but beyond the scope of concern considering other political and national security challenges. But the opposite is true.

When women and girls are marginalized, abused, and denied recognition and status under the law, countries fail and global security weakens. We've seen how this plays out before.

As an international community, we cannot turn our backs on the women and children of Afghanistan.

## ABOUT THE AUTHOR

**Natalie Gonnella-Platts serves as the director of the Women's Initiative at the George W. Bush Institute.**

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Photo credit: Women march for gender equality on International Women's Day in Panajachel, Guatemala: J.A. Dunbar, Shutterstock, March 2020

# COVID-19 Lockdowns and Gender-Based Violence across Ethnic Groups in Guatemala

Laura T. Iesue, PhD

## INTRODUCTION

Women often face barriers to accessing government services, particularly access to the justice system.<sup>1</sup> This is especially the case in Guatemala, where gender-based forms of violence continue to be a criminal justice and health issue.<sup>2</sup> In Guatemala, approximately 36 percent of women who live with a man experience either physical, sexual, or psychological abuse, and on average, two women per day are murdered, according to several reports that focused on gender-based violence in the country between 2015 to 2017.<sup>3</sup> Particularly in areas of Guatemala City, the Eastern

Highlands, and Petén,<sup>4</sup> indigenous women experience overwhelming rates of domestic violence, compared with Ladinos in Guatemala.<sup>5</sup> In addition, these individuals often underreport or do not report being victims of domestic violence, which is often attributed to a general mistrust of the police.<sup>6</sup>

While the issues involving gender-based or domestic violence are now well known in Guatemala, there is limited research into how domestic violence has been impacted by COVID-19 and COVID-19-based policy responses in Guatemalan contexts.<sup>7</sup> One exception is a paper by Iesue and colleagues that found that initial

lockdowns were associated with an increase in domestic violence.<sup>8</sup> However, this pattern varied by departments in Guatemala. While informative, this study did not explicitly consider how one's ethnicity may impact these variations, though it suggests that it may be important.

## DOMESTIC VIOLENCE CASES

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Following previous research conducted in the United States<sup>9</sup> and Australia,<sup>10</sup> this brief report considers how COVID-19 and Guatemala's lockdown policies to mitigate infection impacted domestic violence for Ladinos and Mayans. Daily domestic violence cases were compiled from a specialized policing unit of Guatemala's National Civil Police (PNC) called Departamento de Atención a la Víctima. This unit is located within police headquarters, particularly in areas with higher incidences of violence.<sup>11</sup> Altogether, it has 53 offices across Guatemala.<sup>12</sup> Units are staffed by female police personnel who provide emotional, physical, family, social, and legal assistance either directly or through outreach via other organizations. Victims of violence can report directly to these specialized units. Once the unit receives a complaint from a victim and services have been rendered to the victim, the complaint goes to the PNC, which initiates an investigation in coordination with the Public Ministry, which grants authorization to the PNC to make any necessary arrests.<sup>13</sup> Services involved include initial attention toward the victim's well-being, taking formal complaints, accompanying victims to justice institutions, reporting cases to the judicial bodies, and ensuring compliance with judicial orders regarding the security of the victim, as well as following up on actions regarding the case.<sup>14</sup>

Individuals are classified into the following categories by the PNC: abandoned, Alerta Alba Keneth, Alerta Alejandra,<sup>15</sup> disappeared, flagrancy, abduction of a minor, referred for (abuse or at-risk), restitution of minor's sexual offenses, intrafamilial violence, vio-

lence against women, and others. These categories are broad in scope but fit within the United Nations' definition of domestic violence, as domestic violence involves a pattern of behavior in any relationship that is used to gain or maintain power over one's partner, including physical, sexual, emotional, economic, and/or psychological abuse.<sup>16</sup>

In Guatemala, there is not a socially constructed category of "mestizo," or person of a national ethno-racial identity of mixed indigenous and Spanish heritage.<sup>17</sup> Rather, Guatemalans utilize the category of "Ladino." Ladinos are Guatemalan-born and have both indigenous and Spanish heritage, yet they choose to set aside signifiers of indigenous identity such as language and dress.<sup>18</sup> Individuals of predominantly indigenous descent that utilize signifiers of indigenous identity are predominantly Mayan. Because of this, data for this study is broken up into two categories: domestic violence cases for Ladinos and Mayans.

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**“Soon after the lockdown, news outlets began to report domestic violence incidents across Guatemala.”**

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## DATA ANALYSIS TECHNIQUES

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Data was collected from January 1, 2019, until December 31, 2020. In total, there were more than 1,400 cases of domestic violence involving Ladinos and Mayans during this period.<sup>19</sup> For simplicity, an observation variable for each case was created, so a complete count of cases could be obtained based on these categories.

In this study, we consider one key date of interest: March 29, 2020. On this date, Guatemalan President Alejandro Giammattei implemented an

eight-day curfew due to COVID-19.<sup>20</sup> Soon after the lockdown, news outlets began to report domestic violence incidents across Guatemala.<sup>21</sup> This spike in domestic violence cases is not surprising, as this trend was also seen in other countries across the globe that utilized similar lockdown measures.<sup>22</sup> Indicator variables were created to represent the lockdown, so that we could understand how the lockdown impacted domestic violence across these two groups. Any period before the lockdown is signified as a 0, while an indicator of 1 was utilized for the lockdown period and throughout the rest of 2020.

As with past research, multiple techniques were utilized to assess the relationship between the pandemic lockdown and domestic violence.<sup>23</sup> First, simple descriptive graphs depicting counts of domestic violence for all data as well as the intervention date of March 29 were created. Next, Dickey–Fuller non-stationary root tests as well as correlogram plots were generated to determine if lagged values in our model were autocorrelated. Dickey–Fuller results for the Ladino and Mayan models are available in Table 1, and they indicate that the data are stationary. Based on the correlogram plots, data for Ladinos had a positive effect on the values at the 1st, 2nd, 3rd, 6th, 7th, 8th, 14th, 21st, 28th, and 35th lags. For Mayans, a positive effect was seen at the 1st, 7th, 14th, 21st, 28th, and 35th lags. These lagged effects are accounted for in the Poisson regression analyses, which have been provided in the appendix. Poisson regression analyses were calculated instead of ordinary least squares, as Poisson models are commonly used with count variables.<sup>24</sup> Percentage changes in domestic violence based on the Poisson regression models were also calculated using the following equation:  $(\text{coefficient} - 1) * 100 = \text{expected percentage change}$ .

Finally, an interrupted time series analysis for both of our ethnic groups using the ITSA command in STATA 17.1 was conducted.<sup>25</sup> To account for autocorrelation, the Prais–Winsten model, which uses

generalized least square methods to estimate the linear regression model and account for robust standard errors, was utilized. ITSA allows for estimates of domestic violence trends before the lockdown as well as after the lockdown went into effect. ITSA also allows for treating the shutdown as a “treatment” effect, ultimately assessing whether the lockdown contributed to changes in domestic violence. Previously this test has been used to analyze the effects of community interventions on domestic violence,<sup>26</sup> and it is also useful for analyzing large-scale interventions and changes<sup>27</sup> such as government shutdowns.<sup>28</sup>

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**“Results show that domestic violence increased for both Ladinos and Mayans during this time.”**

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## RESULTS

Table 2 lists domestic violence cases for Ladinos and Mayans in Guatemala between 2019 and 2020. On average, there were 24.28 cases of domestic violence per day for Ladinos, and approximately 10.16 cases of domestic violence per day for Mayans. Focusing on the Poisson regression analyses, which considered whether domestic violence increased during the pandemic lockdown, results show that domestic violence increased for both Ladinos and Mayans during this time. For Ladinos, domestic violence increased between 4.08 and 5.13 percent. For Mayans, domestic violence increased between 5.5 to 7.25 percent. However, to assess whether this increase in domestic violence was associated with the pandemic, and more specifically the pandemic-related lockdown, we move to the interrupted time series analysis. Figure 1 visually represents the overall time trend on domestic violence across the two groups.



Table 3 and Figure 2 consist of the interrupted time series models for Ladinos and Mayans during this period. Starting with Ladinos, these results show that domestic violence was significantly decreasing prior to the lockdown ( $b = -0.01$ ,  $p < 0.001$ ). When the lockdown began, domestic violence cases jumped to 2.40 cases per day, and based on the post-estimation command ( $b = 0.01$ ,  $p < 0.001$ ), the lockdown was statistically associated with this increase in domestic violence. Domestic violence continued to steadily increase between March 30 and December 31, 2020 ( $b = 0.02$ ,  $p < 0.05$ ).

For Mayans, the results suggest that domestic violence was not significantly increasing or decreasing prior to the lockdown period. When the lockdown began, domestic violence increased to 1.06 cases per day, however the post-estimation command shows that this jump was not statistically associated with the lockdown, but likely due to some other underlying factor. Domestic violence rates did not change between the period of March 30 and December 31, 2020. Figure 2 consists of a visual representation of the interrupted time series with break points at the time the lockdown began.

## DISCUSSION AND CONCLUSION

Results of this study showed that during the pandemic, domestic violence increased for both Ladinos and Mayans. However, increases in domestic violence were attributed to the lockdown for Ladinos but not for Mayans.

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**“These results are puzzling, and they possibly suggest that once again individuals are simply reluctant to go to the police to report such crimes.”**

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In terms of domestic violence for Mayans, these results may seem like a good thing, at least considering that domestic violence was not exacerbated by or attributed to the lockdown. However, we must ask ourselves why this was not the case, as it was for their Ladino counterparts, particularly considering that past research has often highlighted that Mayans overwhelmingly experience more domestic violence. These results are puzzling, and they possibly suggest that once again individuals are simply reluctant to go to the police to report such crimes. Future work needs to better consider the role of trust in the police, especially whether newly formed police units such as the Departamento de Atención a la Víctima are succeeding in instilling trust and helping all victims of domestic violence. In addition, future analyses of domestic violence need to incorporate more self-reported instances, to better consider the ramifications of COVID-19 and its lockdowns across these groups. Unfortunately, very few policy evaluations focusing on this specialized department’s efficacy when working with victims have been conducted, nor have there been studies utilizing self-reports. More work, both empirically and among advocates, is needed to consider these connections.

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**“Guatemalans need to ensure that their law enforcement and judicial systems continue to investigate and prosecute abusers.”**

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In addition, future policy work needs to help expand access to resources for domestic violence survivors, either with the support of or outside of police stations. This can include providing emergency warning systems to help individuals indicate that they are in danger or need support<sup>29</sup> and expanding support services to areas such as pharmacies.<sup>30</sup> In areas where technology and infrastructure are available to make services more accessible, online



services for victims, including health and counseling services, should be considered.<sup>31</sup> Other potential services include publications with specific guidance that friends and family can utilize to support victims who may be isolated during COVID-19,<sup>32</sup> including advice about what to look and listen for in domestic violence situations and ways to encourage active conversations about domestic violence within neighborhoods.<sup>33</sup>

Finally, changes to Guatemala’s criminal justice system need to be considered, primarily to its law enforcement and judicial systems. First, Guatemalans need to ensure that their law enforcement and judicial systems continue to investigate and prosecute abusers. Currently, the extent to which law enforcement members opt out of investigating and prosecuting domestic violence cases to free up jail space—particularly during COVID-19—is unknown.

While a strictly criminal justice approach will not be enough to eradicate domestic violence, this sector can work with public health officials and other outlets to prevent and combat domestic violence through sanctions on abusers, raising awareness along with programs as mentioned previously, and increasing women’s access to the judicial legal system. Female police units such as the one mentioned are a step in the right direction, but given Guatemala’s history of police abuses, more work is needed to build up trust and access to resources for all victims. In the end, timely and responsive law enforcement embedded in the rule of law can deter violence and provide better protections for women.

**Table 1: Dickey Fuller Root Test Statistics**

<i>Ethnicity</i>	<i>N(Days)</i>	<i>Test Statistic</i>	<i>Critical Values</i>		
			<b>1%</b>	<b>5%</b>	<b>10%</b>
Ladino	730	-20.48 ***	-3.96	-3.41	3.12
Maya	730	-23.09 ***	-3.96	-3.41	3.12

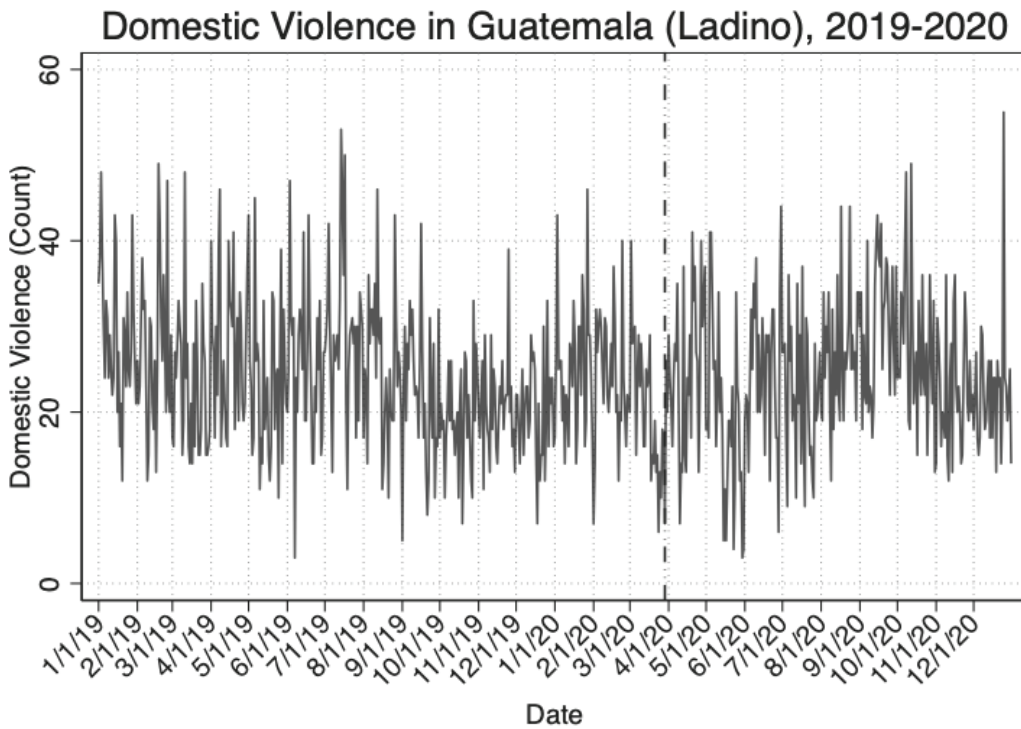
**Table 2: Descriptive Statistics of Domestic Violence by Ethnicity**

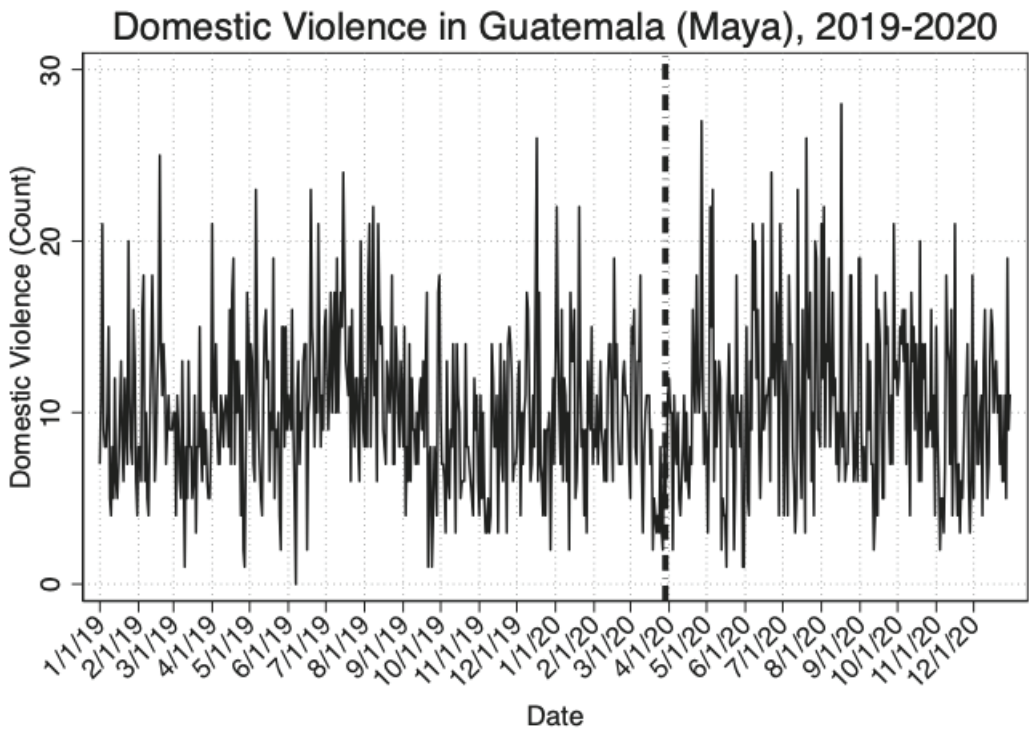
<i>ETHNICITY</i>	<i># DAYS</i>	<i>MEAN</i>	<i>SD</i>	<i>MIN</i>	<i>MAX</i>
<i>Ladino</i>	731	24.28	8.58	3	55
<i>Maya</i>	731	10.16	4.76	0	28

	<i>Ladino</i>			<i>Maya</i>	
	b	(SE)		b	(SE)
<b>Daily</b>	-0.01	0.00	***	0.00	0.00
<b>Lockdown Starts (3/29/20)</b>	2.40	1.68		1.06	0.85
<b>3/30-12/31/20</b>	0.02	0.01	*	0.00	0.00
<b>Post-Estimations</b>					
Lockdown	0.01	1.05	***	0.00	0.00
<b>Cons</b>	27.57			10.44	0.48 ***
<b>N</b>	731			731	
<b>R</b>	0.02			0.00	

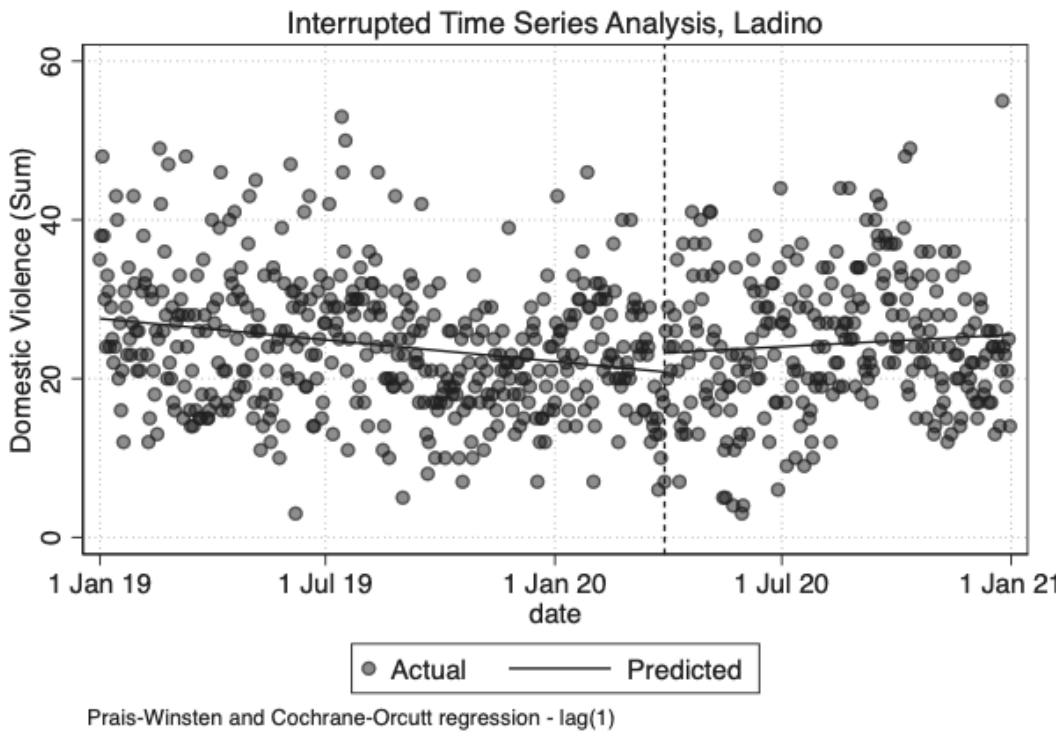
\*\*\*p<0.001 \*\*p<0.01 \*p<0.05

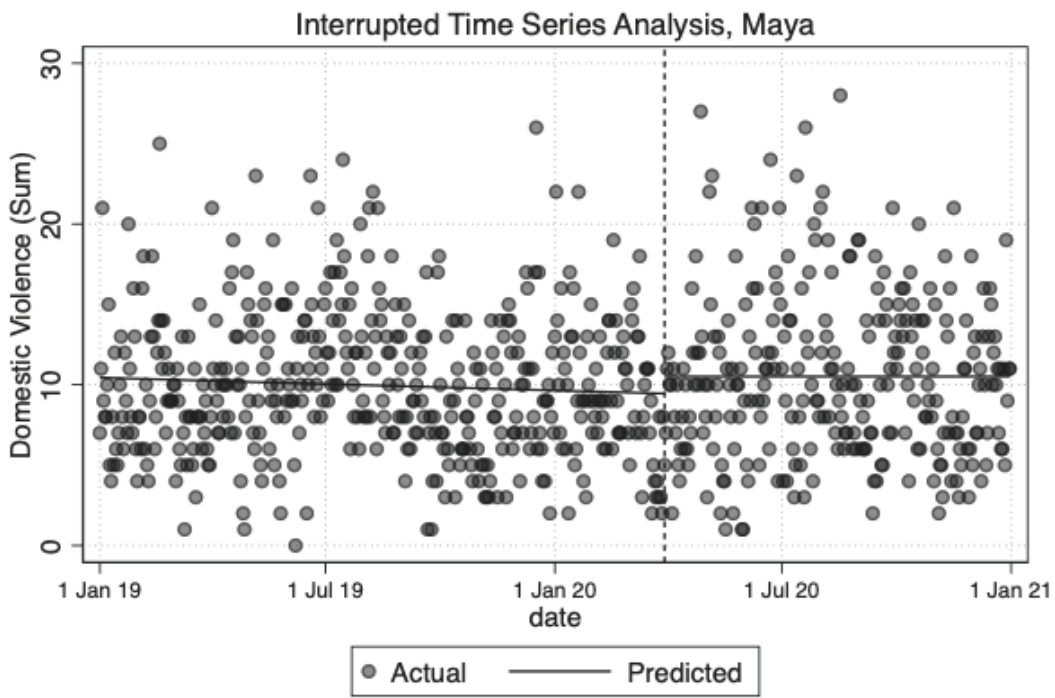
**FIGURE 1A: DOMESTIC VIOLENCE TRENDS FOR LADINOS AND MAYANS FROM 2019 TO 2020**





**FIGURE 2: INTERRUPTED TIME SERIES MODEL FOR LADINOS AND MAYANS FROM 2019 TO 2020**





Prais-Winsten and Cochrane-Orcutt regression - lag(1)



## APPENDIX: POISSON REGRESSION ANALYSES

		LADINO		MAYA
		b(SE)		b(SE)
<i>Model 1</i>	Shelter in Place Constant <i>Pseudo R-Squared:</i> <i>0.0001 (N=731)</i>	0.01(0.02) 3.19(0.01)***		0.07(0.03)** 2.30(0.01)*** <i>Pseudo R-Squared:</i> <i>0.0015 (N=731)</i>
<i>Model 2</i>	Shelter in Place Lag 1 Constant <i>Pseudo R-Squared:</i> <i>0.0275 (N=730)</i>	0.01(0.02) 0.01(0.00)*** 2.91(0.02)***	<i>Lag 1</i>	0.06(0.03)* 0.01(0.00)*** 2.16(0.03)*** <i>Pseudo R-Squared:</i> <i>0.0094 (N=730)</i>
<i>Model 3</i>	Shelter in Place Lag 2 Constant <i>Pseudo R-Squared</i> <i>0.0033 (N=729)</i>	0.02(0.02) 0.00(0.00)*** 3.09(0.02)***	<i>Lag 7</i>	0.05(0.03)* 0.03(0.00)*** 1.98(0.03)*** <i>Pseudo R-Squared</i> <i>0.0374 (N=724)</i>
<i>Model 4</i>	Shelter in Place Lag 3 Constant <i>Pseudo R-Squared</i> <i>0.0036 (N=728)</i>	0.02(0.02) 0.00(0.00)*** 3.09(0.02)***	<i>Lag 14</i>	0.06(0.03)* 0.03(0.00)*** 1.98(0.03)*** <i>Pseudo R-Squared</i> <i>0.0380 (N=717)</i>
<i>Model 5</i>	Shelter in Place Lag 6 Constant <i>Pseudo R-Squared</i> <i>0.0063 (N=725)</i>	0.02(0.02) 0.00(0.00)*** 3.05(0.02)***	<i>Lag 21</i>	0.06(0.03)* 0.02(0.00)*** 2.07(0.03)*** <i>Pseudo R-Squared</i> <i>0.0222 (N=710)</i>
<i>Model 6</i>	Shelter in Place Lag 7 Constant <i>Pseudo R-Squared</i> <i>0.0468 (N=724)</i>	0.02(0.02) 0.01(0.00)*** 2.82(0.02)***	<i>Lag 28</i>	0.05(0.03)* 0.02(0.00)*** 2.04(0.03)*** <i>Pseudo R-Squared</i> <i>0.0273 (N=703)</i>
<i>Model 7</i>	Shelter in Place Lag 8 Constant <i>Pseudo R-Squared</i> <i>0.0047 (N=723)</i>	0.02(0.02) 0.00(0.00)*** 3.07(0.02)***	<i>Lag 35</i>	0.06(0.03)* 0.02(0.00)*** 2.09(0.03)*** <i>Pseudo R-Squared</i> <i>0.0174 (N=696)</i>

<i>Model 8</i>	Shelter in Place Lag 13 Constant <i>Pseudo R-Squared</i> <i>0.0108 (N=718)</i>	0.03(0.02) 0.01(0.00)*** 3.01(0.02)***		-- -- --
<i>Model 9</i>	Shelter in Place Lag 14 Constant <i>Pseudo R-Squared</i> <i>0.0477 (N=717)</i>	0.04(0.02)* 0.01(0.00)*** 2.81(0.02)***		-- -- --
<i>Model 10</i>	Shelter in Place Lag 21 Constant <i>Pseudo R-Squared</i> <i>0.0380 (N=710)</i>	0.04(0.02)** 0.01(0.00)*** 2.85(0.02)***		-- -- --
<i>Model 11</i>	Shelter in Place Lag 28 Constant <i>Pseudo R-Squared</i> <i>0.0380 (N=703)</i>	0.05(0.02)** 0.01(0.00)*** 2.87(0.02)***		-- -- --
<i>Model 12</i>	Shelter in Place Lag 35 Constant <i>Pseudo R-Squared</i> <i>0.0268 (N=696)</i>	0.05(0.02)** 0.01(0.00)*** 2.90(0.02)***		-- -- --

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Photo credit: Tens of thousands of women protest against femicide and gender-based violence on International Women's Day in Mexico City, Mexico: Soy Sendra, Shutterstock, March 2020

## Ni Una Menos, Not One Less: Femicides and Gender-Based Violence in Mexico and Northern Central America

Gema Kloppe-Santamaría

In January 2021, Luz María del Rocío López was murdered. Her body was found wrapped in plastic inside a sewer in Guatemala City, showing signs of mutilation, torture, and burning. Luz María was 25 years old, had a 1-year-old daughter, and worked as an investigator in the Public Prosecutor's Office. She was trained as a criminologist and wanted to go to school for a master's in forensic science. The neighbors had continuously heard her screaming asking for help while her husband abused her, but they did not report it to the authorities. Her family and friends knew or

suspected the violence she endured at the hands of her husband but were unable to help her.<sup>1</sup> Neither the country's justice institutions—where she happened to work—nor her neighbors or family members could prevent Luz María's killing. She was defenseless in the face of her abuser. As her case continues to be investigated, the number of women murdered in Guatemala keeps growing. Between January and July 2021, 300 women were killed.<sup>2</sup> Like Luz María, many of these women were murdered by their partners and were exposed to cruel forms of violence and abuse—

verbal, emotional, and physical—that culminated in their killing. In all likelihood, they were victims of femicide, the intentional killing of a woman because of her gender.

Luz María’s femicide is one of the thousands of cases that have been reported over the last decade in the Northern Triangle of Central America, a subregion deeply impacted by the prevalence of femicides and gender-based violence more broadly. In 2019, Honduras, El Salvador, and Guatemala were among the four countries with the highest numbers of femicides per 100,000 women in Latin America, a list that also includes Bolivia.<sup>3</sup> In a context where gender-based violence intersects with gang-related activities, state-sanctioned violence, and high levels of impunity, an increasing number of women—either alone or with their children—have been forced to flee these Central American countries and migrate northward in search of survival and protection.<sup>4</sup>

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## “In Mexico, every day, 10 women are murdered.”

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Women fleeing from Mexico share similar experiences of violence and abuse at the hands of their partners, men linked to criminal organizations, or law enforcement institutions. Although Mexico has lower femicide rates than the northern Central American nations (1.5 per 100,000 women, compared with 1.8 in Guatemala, 3.3 in El Salvador, and 6.2 in Honduras),<sup>5</sup> statistics on violence against women in Mexico are equally staggering. According to official sources, from January to June of 2020, 1,844 women were killed, most of them by firearm or strangulation.<sup>6</sup> This number corresponds to the grim figure that has caught national and international attention over the last two years: In Mexico, every day, 10 women are murdered.<sup>7</sup>

Behind these statistics, there are the stories of thousands of women whose lives, and those of their families, have been shattered by violence. One of the most recent—and perhaps most alarming cases—reported in Mexico was the murder of 34-year-old Reyna González in the municipality of Atizapán de Zaragoza, in Estado de México, in May 2021. Reyna’s body was found, together with the remains of other unidentified women, in the house of Andrés N., a 72-year-old man who has since admitted to murdering and mutilating 30 women over the course of two decades.<sup>8</sup> The case is reminiscent of the series of murders committed by former policeman Hugo Osorio in the municipality of Chalchuapa, in El Salvador. Osorio’s murders were uncovered this past May when neighbors called the police after hearing screams coming from his house and seeing the perpetrator hit one of his victims in the head with a metal pipe.<sup>9</sup> The victim was Jacqueline Palomo Lima, 26 years old, who had been lured into Osorio’s house after he promised her information about her missing brother. The remains of at least 24 more people, including Jacqueline’s mother and brother, were found in his home.

Although authorities and press reports have characterized these men as “monsters” and “lone serial killers” whose behavior is assumed to be anomalous or isolated, the reality suggests a more complex and unsettling picture. Andrés N. participated actively in local and neighborhood-based politics, and he was part of a campaign team supporting one of the candidates for mayor in the municipality of Atizapán de Zaragoza.<sup>10</sup> Hugo Osorio planned and carried out his killings in collaboration with at least 12 other people. One of his accomplices was a member of the armed forces who asked for Osorio’s help with murdering his girlfriend and his own son.<sup>11</sup> More important perhaps, the femicides perpetrated by these men share important characteristics with the thousands of cases that remain unresolved in Mexico and the Northern Triangle of Central America. These characteristics include these killers’ excessive use of violence (including torture, mutila-

tion, and burning), the use of sexual forms of abuse, a close or sentimental tie to some of the victims, and their occurrence within contexts undergirded by high levels of impunity.

The prevalence of these acts of violence, together with the impunity that surrounds them, has produced a wave of protests organized by feminist organizations and activists across this subregion. In Honduras, the murder of a 26-year-old nursing student while in police custody pushed dozens to rally and publicly denounce police brutality and gender-based violence last February.<sup>12</sup> In Guatemala, hundreds of women took to the streets on International Women’s Day, carrying banners that read “Girls are not to be touched, raped, burnt, killed” and “We did not ‘appear’ dead; we were murdered.”<sup>13</sup> Political leaders have met women’s mobilizations with contempt, if not outward hostility. Notably, Mexican President Andrés Manuel López Obrador has repeatedly downplayed or called into question the significance of violence against women in the country.<sup>14</sup>

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## “Gender-based violence is thus at the heart of the cycles of violence impacting these and other nations.”

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For too long, security responses promoted by the governments of Mexico and the Northern Triangle of Central America have focused on the violence produced by drug-trafficking organizations or the transnational gangs commonly known as *maras*.<sup>15</sup> Conversely, international cooperation efforts and assistance programs—including those sponsored by the United States government—have centered on dismantling these criminal organizations through punitive and military responses, as well as, to a lesser extent, policies that seek to address the institutional and social roots driving organized crime.<sup>16</sup> Violence against women has been, at the

very best, addressed as an afterthought, as part of those “other” forms of violence impacting citizens in the “private realm.” Evidence suggests, however, that gender-based violence intersects in significant ways with the violence produced by gangs and organized criminal groups. Women experience forced recruitment, sexual exploitation, and lethal violence on behalf of gangs in the Northern Triangle,<sup>17</sup> and networks of human and sexual trafficking operating in both Mexico and the United States—such as the one originated in Tenancingo, Tlaxcala—involve women who are exploited by members of their own families or by their sentimental partners.<sup>18</sup> Moreover, militarized responses to security challenges have increased women’s exposure to sexual violence and femicides perpetrated by organized criminal organizations and state actors.<sup>19</sup> Adding to this scenario, several studies have demonstrated that exposure to violence during childhood—e.g., witnessing sexual and physical violence against a mother at home—increases an individual’s risk of suffering violence later in life.<sup>20</sup> Gender-based violence is thus at the heart of the cycles of violence impacting these and other nations.

The governments of Mexico and the countries of the Northern Triangle of Central America need to prioritize the implementation of integral and multisector responses to femicides and gender-based violence. US security cooperation initiatives as well as assistance programs need to acknowledge how gender-based violence intersects with different expressions of criminal violence in both the public and private spheres. The US government’s recently announced strategy to address the root causes of migration, which includes a fifth pillar centered on “combating sexual, gender-based, and domestic violence”<sup>21</sup> is a step in the right direction, insofar as it acknowledges the centrality of these issues to the security challenges faced by these nations. To be fully effective, however, such a strategy should address the intergenerational dimensions of gender-based violence, its manifold connections to organized crime and gang-related violence, and the



detrimental consequences that militarized responses to crime have had on women and girls' security and well-being. Gender-based violence needs to be seen, heard, and acted upon. "Not One Woman Less, Not One More Death."

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Photo credit: Students protest in support of removing a fraternity following an alleged sexual assault at a university in Lincoln, Nebraska: Matt Bills, Shutterstock, August 2021

## A Return to “College Culture” Sparks Student-Led Protests against Sexual Violence in Higher Education (Again)

Renu Sara Nargund and Tracey Vitchers

*Content warning: This article contains references to sexual assault and violence.*

The fall of 2021 marked the return of millions of students to university campuses after a long hiatus due to the COVID-19 pandemic. While adhering to strict university policies designed to contain the spread of the virus,<sup>1</sup> students have found themselves battling a plague of sexual violence largely on their own. Volatile guidelines from the US Department of Education have left universities with little oversight, meaning

students usually bear the responsibility of developing creative strategies to demand change within their institutions. After new cases of sexual violence surfaced at numerous universities, young activists have ignited a new wave of protests calling on universities to dismantle the infamous “college culture,”<sup>2</sup> which has long been associated with pervasive violence that disproportionately affects women and marginalized communities.



Gender Based  
Violence



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## LEGISLATION TO ADDRESS SEXUAL VIOLENCE ON CAMPUS

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Under President Obama’s administration in 2011, the Department of Education Office for Civil Rights (OCR) released the landmark “Dear Colleague Letter” (DCL) expanding Title IX, a federal law barring gender discrimination, to include peer-on-peer sexual violence.<sup>3</sup> Three years later, the OCR released improved guidance for universities and launched several investigations into prestigious academic institutions—and for the first time in US history, it began publishing the names of institutions under investigation for Title IX violations related to institutional mishandling of sexual misconduct investigations and adjudications.<sup>4</sup>

During this period, colleges and universities underwent immense changes to adhere to the guidelines, developing new policies, contracting training services for students and employees, and hiring personnel to oversee Title IX violations. By 2017, the DCL and 2014 Title IX guidelines had been withdrawn by the Trump administration.<sup>5</sup> Less than two months after COVID-19 was declared a global pandemic, the Department of Education released new guidance that overhauled systems that universities had just struggled to put in place.<sup>6</sup> Specifically, the May 2020 regulations issued by Secretary of Education Betsy DeVos established a narrower definition of sexual misconduct incidents that educational institutions would be required to investigate and forced colleges to follow a more prescriptive and onerous adjudicative process that would likely result in more student survivors electing to not engage in Title IX processes whatsoever.

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**“Gender and sexual minority students are nearly three times more likely to experience violence than their cis-het male peers.”**

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## HIGH-RISK ENVIRONMENT

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Research and campus climate surveys have consistently documented a prevalence of sexual violence across universities. The combination of heavy alcohol consumption and a limited understanding of consent among the student population have fostered an environment that perpetuates sexual assault—“the college culture.”<sup>7</sup> A 2019 national survey of 108,221 undergraduate students across 33 schools revealed that approximately 7 percent of cisgender<sup>8</sup> heterosexual<sup>9</sup> (cis-het) males reported experiences of sexual assault with physical force.<sup>10</sup> For female students, the statistics were closer to one in four.<sup>11</sup> Gender and sexual minority students are nearly three times more likely<sup>12, 13</sup> to experience violence than their cis-het male peers. Those who choose to report incidents to the school experience significant disruptions to their education<sup>14</sup> and often suffer serious mental health consequences, including depression and post-traumatic stress disorder.<sup>15</sup>

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**“The study found that it was approximately only 5 percent of men who were committing the vast majority of the sexual assaults, indicating that the men were repeat perpetrators.”**

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Certain student populations have been identified as having a higher likelihood of being perpetrators of sexual violence. Namely, male students who are affiliated with fraternities (“Greek life”) and male athletes. Male fraternities are associated with environments where violence against women is normalized, a key component of the so-called “college culture.”<sup>16</sup> A recent study found that men affiliated with these social organizations are 300 percent more likely to perpetrate sexual assault.<sup>17</sup> However, it is important to note that it is not all men in frater-

nities who are committing these acts, and that there is a larger issue of universities neglecting to address sexual violence at an institutional level. The study found that it was approximately only 5 percent of men who were committing the vast majority of the sexual assaults, indicating that the men were repeat perpetrators. Forty-six percent of the incidents of sexual assault reported in the study were committed by men who admitted to raping 10 or more times. Due to a combination of low reporting rates (less than 10 percent of campus survivors report these incidents to their institution) and a lack of peer accountability within their social circles, these men are able to commit repeated acts of sexual assault without consequence.<sup>18</sup>

## USING SOCIAL MEDIA TO BRING SHAME

Universities and experts feared elevated rates of sexual violence once social gatherings resumed.<sup>19</sup> Fear shifted to reality when Vanderbilt University<sup>20</sup> and Virginia Tech<sup>21</sup> received at least six notifications of sexual assault within the first month of the fall 2021 semester. Frustrated with institutional betrayal,<sup>22</sup> students are now taking advantage of social media to publicly shame their universities, particularly focusing on fraternities.<sup>23, 24</sup>

In August, a member of the University of Nebraska-Lincoln (UNL) Phi Gamma Delta chapter, a fraternity known as FIJI, was accused of sexual assault. Once word hit social media platforms, there was viral outrage among young adults across the United States. Less than a day after the report, a video on popular social media platform TikTok that showed hundreds of students shouting, “Rot in hell!” outside the FIJI lawn had already amassed more than two million views and almost 400,000 likes.<sup>25, 26</sup> After mounting pressure from students, the FIJI chapter at UNL received a five-year suspension. Leaders of protests against sexual violence

at Auburn University credited videos of activism at UNL for inspiring them to speak out against their administration.<sup>27</sup>

Weeks later, in October, Brandon Freyre, a 20-year old member of Kappa Delta Rho at the University of Delaware, was charged with a series of felonies, including strangulation and assault, for his violent actions against a female student.<sup>28</sup> University leadership waited four days to release a statement denouncing Freyre’s actions.<sup>29</sup> In contrast, the petition for his expulsion disseminated by students gathered 20,000 signatures in just two days, and a video documenting Freyre’s friends laughing at the protest was viewed more than seven million times.<sup>30</sup>

Platforms like Instagram, TikTok, and Twitter, which students are leveraging to drive public knowledge and institutional change, have made it impossible for administrators to contain awareness of protests to their campuses. The combination of on-campus, in-person protests and the ability for students to quickly spread the word about incidents at their schools has sparked a cascade of protests across multiple campuses calling for abolition of Greek life organizations.<sup>31, 32</sup>

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**“A better approach to addressing sexual violence requires comprehensive prevention tools.”**

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## RESPONSES FROM KEY STAKEHOLDERS

When a fraternity member is publicly exposed for committing sexual assault, the response from universities is often to temporarily suspend the organization the student is affiliated with. Suspensions of fraternities fail to consider that the issue is the not the organization itself, but rather how it fosters

dangerous attitudes toward women, people of color, and LGBTQ+<sup>33</sup> students, which manifest as the perpetration of sexual violence. A better approach to addressing sexual violence requires comprehensive prevention tools, such as effective education on consent throughout a student's college career, as well as coordinated trauma-informed services for survivors. Universities should enforce zero-tolerance policies toward perpetrators of peer-to-peer sexual violence and the social organizations that enable them, to ensure that the consequences for these crimes are based on the crime itself and not any extraneous factors that should not be prioritized.

At the federal level, Title IX guidelines for universities have evolved into a political football, tossed from one administration to the next. To circumvent the politicization of sexual violence on college campuses, states have begun to adopt more comprehensive legislation that expands survivor rights and improves the transparency of the disciplinary proceedings.<sup>34, 35</sup> Amid the latest series of protests, President Biden announced that his plans to roll back the Trump-era Title IX guidelines would begin in May 2022,<sup>36</sup> a contrast to his claims of immediate action during the presidential campaign. In the meantime, student survivors are expected to suffer the consequences of the current guidelines and disciplinary process. Advocates are waiting to see if Catherine Lhamon's recent confirmation as assistant secretary for civil rights in the Department of Education will speed up the federal regulatory process to undo the harmful regulations currently in place.

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**“Why are young adults in higher education still being forced to fight for basic safety and protection on their college campuses?”**

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## **FUTURE FOR STUDENTS IN HIGHER EDUCATION**

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Demonstrations have occurred at more than a dozen schools since the beginning of the fall 2021 semester, with participation ranging from a few disillusioned students to thousands filling the streets with provocative signs and chants. After years of advocacy, protests, and repeated national media attention, it is important to ask the question: Why are young adults in higher education still being forced to fight for basic safety and protection on their college campuses? Institutions of higher education, without pressure to change their policies and practices from the federal government, continue to privilege the social and psychological safety of cis-het men on campus over the physical safety of women, sexual and gender minorities, international students, and students of color.

In response to the COVID-19 pandemic, universities were able to swiftly shift operations from in-person to online learning, while implementing new policies to curb the spread of the virus within weeks. Despite sexual violence on college campuses being a documented issue for at least half a century, universities still choose not to prioritize the safety of students. If sexual violence prevention was treated as a public health emergency of the same magnitude as COVID-19, students would likely not be suffering the way they are today. In the absence of consistent federal laws and university accountability, students are once again forced to take matters into their own hands as they advocate for change within their own campus communities and in the field of higher education writ large.

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Photo credit: Man marches in solidarity at an International Women's Day march in Amsterdam, Netherlands: Elena Baryshnikova, Shutterstock, March 2020

# Preventing GBV Through Positive Masculinities: Fathers' Clubs—A Grassroots Bottom-Up Approach

## Plan International Canada

Globally, about 1 in 3 women experience gender-based violence (GBV) at the hands of their intimate partners or others.<sup>1</sup> This has serious ramifications for any country: It is a violation of women's and girls' fundamental human rights, and it has considerable costs in terms of a country's socioeconomic objectives and systems.<sup>2</sup>

All forms of GBV have intensified during the COVID-19 pandemic,<sup>3</sup> clearly illustrating the following: (1) Deeply rooted gender inequality and harmful social norms

can intensify quickly in a crisis. Unless addressed holistically, this can derail progress made on gender-specific issues such as GBV. (2) Global GBV response actions, which focus predominantly on top-down normative and systemic approaches, are not enough, as they don't address the root causes of GBV.

Some 155 countries have passed laws against domestic violence<sup>4</sup> that focus on punitive actions and providing services to survivors. Yet enforcement of these laws continues to remain a challenge,<sup>5</sup> while

bottom-up prevention of GBV has received less attention in governments' policy agendas. GBV is rooted in unequal power relationships, entrenched gender inequality, and discrimination against women and girls, exacerbated by intersectional factors such as age, race, ability, gender identity, etc. To eliminate all forms of GBV, governments need to adopt both top-down and bottom-up approaches, equally prioritizing systemic measures and other measures that tackle the root causes. The latter includes building the inherent agency of women and girls in all their diversity, engaging men and boys in positive masculinities, and fostering a broader social environment that rejects GBV in any form.

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**“To eliminate all forms of GBV, governments need to adopt both top-down and bottom-up approaches, equally prioritizing systemic measures and other measures that tackle the root causes.”**

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A critical approach neglected in GBV responses is the systematic engagement of men and boys in positive masculinities broadly and in addressing gender-specific issues such as GBV. Globally, there is growing momentum behind men's engagement as a programmatic and policy measure in several sectors. However, operationalization of these objectives requires consideration of the various barriers to men's meaningful engagement in different contexts.

## PLAN INTERNATIONAL CANADA'S EXPERIENCE IN ENGAGING MEN IN GENDER EQUALITY: LEARNINGS FROM A REPRODUCTIVE HEALTH PROGRAM

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### **The Vision**

As a core element of our gender-transformative approach, our extensive experience in implementing male engagement interventions views men and boys as partners and beneficiaries of gender equality. This vision is of sustainable attitudinal, behavioral, and relational changes that encompass men's experiences, motivations, relationships, and active participation—rather than a list of actions or decisions in which men should participate.

### **The Approach of Fathers' Clubs**

As part of the comprehensive Gender Equality Strategy of the multicountry program funded by Global Affairs Canada, Strengthening Health Outcomes for Women and Children (SHOW) (2016–2021), Plan International implemented an evidence-informed male engagement strategy in Bangladesh, Ghana, Haiti, Nigeria, and Senegal in support of good outcomes in reproductive health. The project established 1,041 Fathers' Clubs, engaging 15,105 fathers in a course of 20 reflective sessions to broaden men's understanding of gender equality, motivate them to question what it means to be a man and a father, and promote their equitable and nonviolent involvement in households.<sup>6</sup>

### **Phased Process**

The approach comprised three components: (a) development of the Fathers' Clubs curriculum, (b) training/mentoring of local male facilitators, and (c) recruitment of men's groups willing to undergo all sessions.



## The Content

The Fathers' Clubs Manual sets out 20 participatory sessions covering topics such as gender and power, nonviolent relationships, and equitable distribution of roles and decision-making. These sessions motivate men to challenge inequitable gender norms and power imbalances in their personal lives, and to promote sustained changes in their relationships with spouses and children. The sessions are strengthened with homework to encourage discussions with spouses, family members, and peers.

## The Effects

In 2019, Plan International Canada conducted a qualitative study<sup>7</sup> in four SHOW countries with men from Fathers' Clubs, their spouses, adolescent children, and community leaders, to examine their experiences and perspectives around changes in men's household caregiving and couple relationships. The findings revealed Fathers' Clubs members were more positively and nonviolently engaged with their spouses and children. Key findings are:

- **Challenging rigid norms:** Men started to challenge traditional social norms that perpetuate gender hierarchies and unequal power relations. They changed attitudes and practices regarding their roles in their homes.
- **Self-restraint:** Men demonstrated improved self-control linked to a perceived reduction in GBV. Respondents reported being more open communication and peaceful conflict resolution in their personal relationships.
- **Joint decision-making:** There were shifts in decision-making patterns, indicating improved collaboration between spouses.
- **Improved spousal and family relations:** Perceptions of increased bonding, respect, love, and humor were identified, as well as spending more quality time in the house. There were also improved

father-child relations, including equal treatment of girls and boys.

- **Internalization:** Men appear to have internalized learnings from the Fathers' Clubs and started to share these lessons with the next generation in their homes. This points to the potential for socialization of gender equality intergenerationally and with peers.
- **Role of Fathers' Clubs:** Study respondents universally identified that Fathers' Clubs learnings have triggered positive changes in the attitudes and behaviors of men.
- **Sustainability:** Respondents overwhelmingly believe that the adopted positive behaviors will be sustained, as they are linked to perceived benefits to men and their families.

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**“As a bottom-up approach, male engagement tackles the root causes of GBV and contributes to its prevention.”**

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## ADDITIONAL IMPLICATIONS FOR PROGRAMMERS AND POLICYMAKERS

Our experience and results establish that well-designed and implemented male engagement interventions have positive outcomes and should be applied in complementarity and systemic approaches. As a bottom-up approach, male engagement tackles the root causes of GBV and contributes to its prevention. However: (1) There is no generic approach to meaningfully engaging men; they are not monolithic, and neither are the barriers they face. Contextual relevance is key to an increased acceptability

of gender transformative change. (2) To be lasting and sustainable, care should be taken to promote a holistic understanding of men's engagement as a change in men's attitudes, values, and relationships, rather than men's specific actions alone. (3) Engaging men in positive masculinities can lead to stigmas for participating men and their spouses, as well as conflict with community and household influencers. A parallel broad communication strategy to enable men's engagement is important. (4) Engaging men can have unintended negative outcomes by further reinforcing men's power and privilege. This requires risk-cognizant planning and execution of interventions informed by women's and girls' voices, along with good monitoring and evaluation. At no point should male engagement lead to the disadvantage of women and girls.

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Photo credit: Russian woman holds a sign that says "I don't need flowers, I need a law that will protect me from domestic violence" at a feminist rally in St. Petersburg, Russia: Farhad Sadykov, Shutterstock, March 2017

## Domestic Violence in Russia: Existing and Proposed Legislation

Anna Rivina, PhD

The Convention on the Elimination of All Forms of Discrimination against Women entered into force in 1981, and as of 2021, 189 United Nations (UN) member states are parties to this international agreement. One can hardly overestimate the importance of its adoption, as it was the first international document to acknowledge the problem of domestic violence and suggest ways to solve it. The Soviet Union was one of the first countries to ratify the agreement, but soon afterward, a group of Leningrad feminists, who were exploring women's issues in the USSR, were expelled from the country.

That alone was good reason to wonder whether the publicly professed readiness of the Soviet leadership to protect women and prioritize their safety was nothing but rhetoric. That did indeed prove to be the case. Now Russia is the only member state of the Council of Europe not to have a law on domestic violence,<sup>1</sup> and it is the last post-Soviet country that does not have dedicated legal mechanisms to protect women from violence in the family.

Why is a separate specialized law protecting the victims of domestic violence so important? After all, one will often hear its opponents claim that the Criminal



Code in its current version is successful in dealing with the problem.

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## “Only 10 percent of domestic violence victims in Russia seek police assistance after beatings.”

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First, in the absence of a dedicated law, Russian legislation does not have a definition of what constitutes domestic violence. For that reason, Russia lacks comprehensive and up-to-date statistics that would show the scale of the problem. The number of domestic violence cases has gone up drastically in many parts of the world during the global COVID-19 pandemic, requiring additional steps to protect the victims.<sup>2</sup> Meanwhile, according to spokespeople for the Russian Ministry of Internal Affairs, the number of domestic violence cases reported to the police in Russia in 2020 went down compared to 2019.<sup>3</sup> At the same time, Russian human rights organizations directly working with victims and survivors have registered a rise in the number of people turning to them for help. Police figures are not false, but one should keep in mind that Russian women were penalized for violating the so-called self-isolation regime if they went to the police when facing a life-threatening situation.

Second, the police are not the people whom Russian women tend to seek help from when facing domestic violence. According to Kommersant newspaper,<sup>4</sup> only 10 percent of domestic violence victims in Russia seek police assistance after beatings. And such assistance is not very efficient, especially after the so-called decriminalization of domestic violence, when in winter of 2017 battery against a close relative was moved from the Criminal Code (Article 116) to the Code of Administrative Offenses (Article 6.1.1). After the reclassification, battery now incurs a fine of 5,000 to 30,000 rubles (or, much more rarely, other penalties, namely administrative arrest for a

period of 10 to 15 days or compulsory community service for a sum of 60 to 120 hours). According to the Zona Prava human rights project, in the first six months of 2020, the average fine for family violence in Russia was 5,323 rubles<sup>5</sup> (approximately US \$70).

One of the grave consequences of decriminalizing battery against close relatives is that a person who beats up a family member faces criminal liability only in the case of repeated offenses and only if the second offense occurs within a year. In basic terms, this works as follows: If a man beats up his wife only once a year and avoids breaking her bones, then he does not face a criminal charge. To make things worse, criminal liability for the second instance of battery is followed by administrative liability for the third instance, thus making the penalty for the third offense lighter than for the second.

It wasn't until April 9, 2021, that the Russian Constitutional Court ruled this norm unconstitutional. It happened following the complaint of Liudmila Sakova, who asked the Constitutional Court to clarify the provision on repeated battery<sup>6</sup> (Article 116.1 of the Russian Criminal Code). In 2018, her brother was fined for beating her up; in spring of 2019, he was sentenced to corrective labor under the Criminal Code for a second beating, but in October 2019, he assaulted her again and was only sentenced to a fine under the Administrative Code, because more than a year had already passed since the first fine. The Constitutional Court ruled that the wording in the current legislation does not ensure the right of aggrieved parties to protection and instructed the Russian lawmakers to make this provision more specific.

There has been no follow-up by the Russian authorities so far, and at present, the ruling of the Constitutional Court is the only positive news that gives at least some hope that the members of the Russian parliament will undertake steps to rectify the situation soon. This is much better than staying on the sidelines watching the violence that millions of

Russian women face within the family, yet leaving them entirely unprotected.

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**“Lawmakers take one step forward and 10 steps back—barely improving the situation and not letting the new practices settle before quickly rolling them back.”**

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Since emergence on the world map of the new state called the Russian Federation, different people and initiatives have put forward more than 40 draft bills against domestic violence, but not a single one of them was reviewed by the parliament even in the first reading.<sup>7</sup> Every new electoral cycle sees its own initiatives and new actors, but no law is adopted. If the Human Rights Council presents a draft to President Putin and submits it for parliamentary consideration, but the parliament votes for a fine as a penalty for battery, it fails to translate into new legislation—despite the intense public debate and 80 percent support for new laws on domestic violence. In the 7th State Duma, there was only one among 450 members of parliament who had been working hard in the course of six years to improve the situation: Oksana Pushkina. The most recent parliamentary election took place in September 2021, and there is serious doubt that in the new Duma there will be even one voice speaking on behalf of the millions of fellow citizens who live in fear of their family members.

Violence against weaker family members is one of the most frequent offenses in the world, and sociologists point out that Russians may face violence in the family regardless of age, income, education, or place of residence. People in Russia do acknowledge the importance of solving the problem of domestic violence, with 79 percent of respondents to a 2019 survey<sup>8</sup> believing that there is a need for

a law protecting women from violent spouses, partners, or family members. But the lawmakers take one step forward and 10 steps back—barely improving the situation and not letting the new practices settle before quickly rolling them back.

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## The Violence of Shuttering Feminist and Queer Communications

Rui Zhong

For vulnerable people, to check in is to live. Variations of “call me when you get home” and “text me if you need to vent” are not phrases tied to specific cultures. These messages are commonplace among friends, acquaintances, and allies in groups facing gender-based and sexual violence, and they can be a significant part of survival. In the internet age, information and communication technology have a prominent connection to gender justice and safety. To cut off access is to cut oxygen from freely accessible and much-needed tools for combatting violence at the personal and institutional levels.

China is no exception to how gender and intimate partner violence (IPV) is discussed digitally. Since surveys of IPV began in the 1990s, the Women’s Federation of China data have indicated that IPV is the most common form of violence against women.<sup>1</sup> Underreporting remains a serious concern, with 72 percent of a 176-count sample responding that they stayed silent in response to rape.<sup>2</sup> Of 133 women who reported intimate partner violence to family members, nearly half (44.4 percent) were not supported by the family.<sup>3</sup> As more relationships are built digitally within a nation of nearly 1 billion internet users, online communication has connected disparate groups and provided



other options for support.<sup>4</sup>

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## “Online resources have allowed LGBTQ individuals and domestic violence survivors to find camaraderie and sympathetic communities.”

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Sina Weibo and Tencent’s WeChat blogging tools and commenting features have been used to push back against gender norms and the problem of gender violence. Through these social media tools, individuals from different walks of life publish and comment on each other’s citizen journalism, blogs, and essays—as long as they’re not censored. LGBTQ circles, which overlap with feminist interest groups, have also been used to share resources, health information, and safety tool kits. However, the future of both these group types is at greater risk in recent years as authorities clamp down on more varieties of space creation by Chinese feminist and queer communities. As a result, the availability and future of these platforms has taken a concerning turn; likely restrictions and censorship have put Chinese individuals with marginalized gender and sexual identities at greater risk.

Gender violence and homophobia-linked safety issues go hand in hand with the problems of online access. Though state regulators monitor social media spaces for political dissent, blogs and chat spaces have remained an important buffer between the state and civil society. Online resources have

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## “Whether intentionally or not, the problem of harder-to-access web resources about violence and resisting violence can be devastating.”

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allowed LGBTQ individuals and domestic violence survivors to find camaraderie and sympathetic communities. Parents of LGBTQ children also network through social media, swapping advice to help promote solidarity and safety for gender-nonconforming individuals.

The erosion of Chinese social media’s thin buffer between the state and civic spaces spells trouble for groups that do not conform to the standards being written on cultural discourse.

Chinese Communist Party Chairman Xi Jinping’s core vision of China’s social landscape includes 家风建设, or the “construction of family values.” In a July 2020 speech, he specified that families are the cellular components of society, emphasizing the “civilized” construction of family.<sup>5</sup> With a cursory nod to China being a “feminist country,” Xi nonetheless singled out the “unique and distinct” roles that women must fulfill as mothers and wives, including their role in preserving the sanctity and beauty of the traditional Chinese family. This construct has brought about an uptick in images of a heterosexual nuclear family in propaganda and official media, as well as acted as bureaucratic guidance in communication policy. Women were profiled as workers within China’s COVID-19 pandemic, but they were simultaneously commended on their ability to keep their families fed, safe, and stable.<sup>6</sup> These shifting stakes by state actors also contextualizes shutdowns of feminist and queer spaces. As a new law that implements a divorce cool-off period reaches the one-year mark and encouragement that families produce more children becomes more common within propaganda work, the role of biological children and family stability serving political ends re-emerges. Whether intentionally or not, the problem of harder-to-access web resources about violence and resisting violence can be devastating. Veteran organizers, however, are accustomed to having to destroy organizing materials and rebuild web content from backups, knowing that their discussions are sensitive and likely to be taken down.<sup>7</sup>



Photo Credit: Atstock Productions, Shutterstock

By the summer of 2021, state encouragement of traditional gender roles and suppression of content that rebuffed it had coalesced into a tightening on social media and fresh waves of crackdowns. In the wake of high-profile rape cases involving high-profile perpetrators, censorship accelerated. As Canadian-Chinese pop star Kris Wu faced allegations of rape that brought forth a fresh wave of discussions about feminism, consent, and violence, a phrase emerged in online spaces: “It is women that save women.”<sup>8</sup> This phrase trended alongside denials by Wu and assertions that the victim made up her accusation, which refreshed assumptions that she sought money and attention from mass media.<sup>9, 10</sup> Undergirding these dueling sentiments about violence is an implication that is troubling on a societal level: In the absence of institutional support, women can only rely on their sympathetic peers.

As with many aspects of online life in China, the state will remain a key player in regulating speech related to gender violence. However, influencers encouraged by state apparatuses have also accelerated suspicions toward feminist and queer internet

users using their civic-space tools. On Sina Weibo, one prominent user posted a call for tips, alleging unsubstantiated rumors that LGBTQ and feminist organizations were colluding with foreign influence operations.<sup>11</sup> Though veteran activists may be undeterred by the new wave of shutdowns, the dampening of information can be devastating to younger internet users with nowhere to turn.

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**“In the absence of institutional support, women can only rely on their sympathetic peers.”**

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Shrinking discursive space is itself a problem for the future of confronting domestic and gender violence. Powerful perpetrators remain at large, both legally and in the court of public opinion, as discussions about them remain stifled, depending on their connections. If sunlight remains a disinfectant for social issues, those dedicated to promoting feminism and discussing gender politics are finding it harder to

shed that light and share resources. As the social order in China solidifies under Xi Jinping's eighth year in power, it may do so at the cost of safety for marginalized gender and sexual identities.

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Woodrow Wilson International Center for Scholars  
One Woodrow Wilson Plaza  
1300 Pennsylvania Avenue NW  
Washington, DC 20004-3027

 [www.wilsoncenter.org / gbv.wilsoncenter.org](http://www.wilsoncenter.org / gbv.wilsoncenter.org)

 [wwics@wilsoncenter.org](mailto:wwics@wilsoncenter.org)

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 202.691.4000