

"In the nineteenth century, the central moral challenge was slavery. In the twentieth century, it was the battle against totalitarianism. We believe that in this century the paramount moral challenge will be the struggle for gender equality around the world."

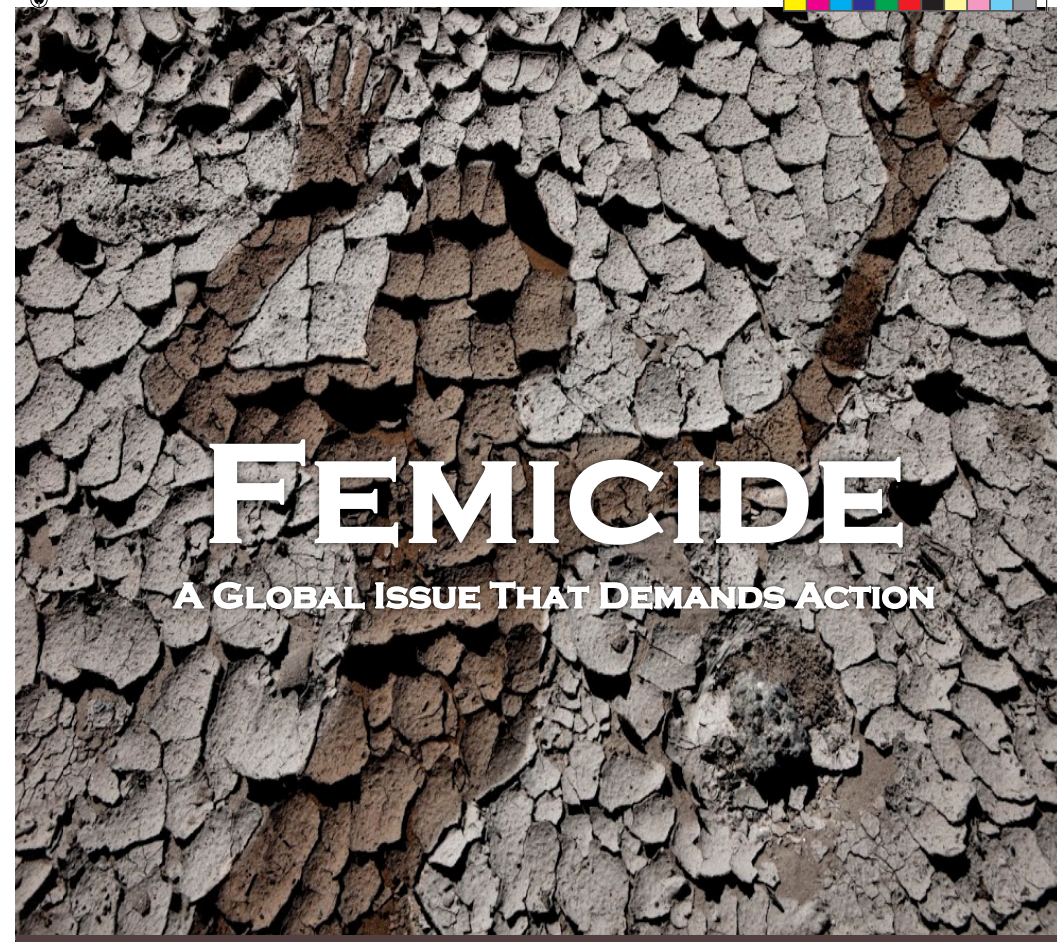
Nicholas D. Kristof, *Half the Sky: Turning Oppression into Opportunity for Women Worldwide*

"No child should have to fear going to school. No child should ever have to fear being a child. And no child should ever have to fear being a girl."

Phumzile Mlambo-Ngcuka,
Executive Director, UN Women

"Women subjected to continuous violence and living under conditions of gender-based discrimination and threat are always on – death-row, always in fear of execution."

Rashida Manjoo
Former UN Special Rapporteur on Violence against Women,
its Causes and Consequences



TAKING ACTION AGAINST GENDER-RELATED KILLING OF WOMEN AND GIRLS

VOLUME IV





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The ACUNS-Vienna team would like to express their gratitude to all the sponsors of the "Femicide" resolution, but in particular to the Permanent Missions of Croatia, Thailand, Mexico, Norway, and the Philippines in Vienna and for the excellent collaboration with UNODC, UNWomen, OHCHR, and the Special Rapporteur on Violence against Women, Mrs. Dubravka Simonovic.

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FEMICIDE

A Global Issue That Demands Action

Volume IV

“We can no longer stand by as women are murdered for one reason and one reason only, because they are women. The crime of femicide is growing all over the world and often remains unpunished. It is a human rights violation that is characterized by misunderstanding and impunity.”

– Michelle Bachelet, President of Chile

Thailand Institute of Justice (TIJ) was established by the Royal Thai Government in 2011. It aims to promote excellence in research and capacity -- building in crime and justice. Building on Thailand's engagement in the UN Commission on crime Prevention and Criminal Justice and the UN Crime Congresses, TIJ serve as a bridge that transports global ideas to local practice, including in enhancing domestic justice reform and the rules--based community within the ASEAN region. Under its mandate, TIJ undertakes researches, capacity building trainings as well as promotes regional and international cooperation in the areas of crime and justice, and gears towards important cross--cutting issues on the UN agenda such as the rule of law, development, human rights, peace and security.

One of TIJ's primary objectives is to support the implementation of United Nations standards and norms in the field of crime prevention and criminal justice. The promotion and protection of human rights of vulnerable groups, especially women and children, in the criminal justice system is one of TIJ's priorities. The sub--themes under this issue include child justice, women's corrections and the implementation of the Bangkok Rules, gender justice, particularly violence against women and gender--related killings of women and girls or femicide.

With regard to femicide, TIJ has attached great importance to this issue and organized a number of activities on this issue. One of them is a high--level panel discussion entitled 'Taking Action against the Gender--related Killings of Women and Girls,' which TIJ co--hosted with the Permanent Missions of Thailand, Argentina and Austria in Vienna and the Academic Council on the United Nations System (ACUNS) on 18 October 2013. The panel discussion drew attention to the landmark resolution adopted by the Third Committee on the same day, which will be adopted by the General Assembly in December 2013. The resolution requires member states to take action on the prevention

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Foreword

This summer, we Europeans have been confronted with hundreds of thousands desperate refugees fleeing barbarous wars. In these latest conflicts in the new Millennium, humanitarian law seems to have been abandoned. Civilian populations are targeted, hospitals and cultural monuments bombed and women have been kidnapped, enslaved, raped, and killed. Not since the Second World War have such massive war crimes been committed.

These systematic violations of women's basic human rights by armed groups to intimidate the enemy or simply as enjoyment as part of the spoils of war is not only a military crime, an international war crime, but also represent national crimes of assault, rape, and murder, which should be prosecuted even years after the incidents have taken place. The international tribunals have found men guilty of such crimes. Countries are also now facing up to their responsibilities to charge combatants and officers for these crimes of femicide.

Although Austria has had a "Protection against Violence Act" since 1997, a third of Austrian women report they have been victims of violent abuse inflicted by persons close to them – their partners, husbands, fathers or brothers. It remains one of the most unreported crimes even in Austria. The situation of migrant women is far worse because they fear losing their legal status if they divorce or charge their husbands with battery or rape. Austria is proud of its women and civil society organizations which maintain emergency helplines, shelters, rape crisis, and counselling centres but we realize that these services often do not reach undocumented migrants. All interventions must prioritize the safety of survivors and their children, but special preventive attention should be given to girls, older women, refugee women, and women with disabilities.

Austria is proud to have been one of the first countries to ratify the Istanbul Convention on Preventing and Combatting Violence Against Women and Domestic Violence. We believe that its provisions can be a model for other regions in the world. We are pleased to have co-sponsored both General Assembly resolutions "Taking Action against the Genderrelated Killing of Women and Girls".

I was happy to speak on this topic at UN Congress on Crime Prevention and Criminal Justice and to endorse the continued work of the Academic Council on the United Nations System on this important topic.

Wolfgang Brandstetter, Austrian Minister of Justice

Preface

This is now the fourth volume of “Femicide: A Global Issue that Demands Action” since the 2012 report of the Special Rapporteur on Violence against Women, which listed the various forms of femicide. While the international community condemns the killing of women in the name of honour, targeted sexual violence in war, female infanticide and sex-selective foeticide, female genital mutilation and child marriage, these practices continue. At times, it seems that we are returning to ancient times when women were kidnapped by soldiers, gang-raped, sold in slave markets and forced into submission in marriage to strangers. Even UN peacekeepers have been accused of sexual abuse of civilians. We are now fortunate to have two outspoken advocates for women, Mrs. Dubravka Simonovic, Special Rapporteur on Violence against Women and Mrs. Bangura, Special Rapporteur on Sexual Violence in Conflict.

We are pleased to have helped in the adoption of the second General Assembly resolution “Taking Action against the Killing of Women and Girls”. Delegates have referred to the Femicide volumes as “resource handbooks” in negotiating language for the two resolutions. We believe this series not only provides a historical record of the progress made but gives Parliamentarians, government officials, and advocates material to reform national legislation and strengthen machinery to stop this abomination in the 21st century.

For the first time, the Resolution speaks of sexual violence in conflict, targeted mass kidnapping, rape, and killing of women and girls, but it also reminds us that one in every two women victims of homicide is killed by an intimate partner or a family member. It stresses that Member States have the obligation to prosecute and punish those responsible, no matter who the perpetrators of such crimes are and to, once and for all, eliminate impunity.

The resolution also appreciated the input of civil society organisations as well as academia in addressing different forms of violence, through research and direct action in their communities. It takes note of the international tribunal and national courts which have prosecuted femicide, but also recognises that violence against women is the least punished crime in the world. Not only should these crimes be investigated and prosecuted but also reparation, compensation and necessary legal, medical, psychological and social support be given to survivors, the families and dependents of victims. Civil society is explicitly mentioned to provide sustainable assistance and facilitate access to justice to survivors and dependents.

The resolution encourages Member States and relevant United Nations entities to raise awareness regarding gender-related killing of women and girls. For this purpose, the Academic Council on the United Nations System and the co-sponsors of the resolution are organising a consultation during the 70th session of the General Assembly to discuss what practical measures the United Nations and the international community can undertake to actually stop these heinous medieval crimes.

Michael Platzer, Milica Dimitrijevic, Andrada Filip
and ACUNS Vienna Femicide Team



PART I: RECENT DEVELOPMENTS

1.1. RECENT DEVELOPMENTS, INSTRUMENTS AND BEST PRACTICES

*“Break the silence. When you witness violence
against women and girls, do not sit back. Act.”*

- Ban Ki-moon, UN Secretary- General



1.1. SECURITY COUNCIL REPORT OF THE SECRETARY-GENERAL: CONFLICT-RELATED SEXUAL VIOLENCE

United Nations

S/2015/203



Security Council

Distr.: General
23 March 2015

Original: English

Conflict-related sexual violence Report of the Secretary-General

I. INTRODUCTION

1. The present report, which covers the period from January to December 2014, is submitted pursuant to paragraph 22 of Security Council resolution 2106 (2013), in which the Council requested me to report annually on the implementation of resolutions 1820 (2008), 1888 (2009) and 1960 (2010) and to recommend appropriate actions. The report presents information on parties to conflict credibly suspected of committing or being responsible for acts of rape and other forms of sexual violence. The year under review was marked by harrowing accounts of rape, sexual slavery and forced marriage being used by extremist groups, including as a tactic of terror.
2. The term “conflict-related sexual violence”, which appears throughout the present report, refers to rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is linked, directly or indirectly (temporally, geographically or causally) to a conflict. This link may be evident in the profile of the perpetrator; the profile of the victim; in a climate of impunity or State collapse; in the cross-border dimensions; and/or in violations of the terms of a ceasefire agreement.
3. While conflict-related sexual violence occurs in many settings, the present report focuses on 19 country situations for which credible information is available. It covers 13 conflict settings, 5 post-conflict countries and 1 additional situation of concern. It highlights actions taken and challenges faced by States in attempting to protect civilians from such violence. It also provides an update on the efforts of the United Nations system, including through the work of the inter-agency network United Nations Action against Sexual Violence in Conflict, and on the technical assistance provided by the Team of Experts on the Rule of Law and Sexual Violence in Conflict and contains recommendations to enhance collective efforts to combat this crime. The report should be read in conjunction with my six previous reports on conflict-related sexual violence, which provide a cumulative basis for the inclusion of 45 parties in the list of parties credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict on the agenda of the Security Council (annex), 13 of which appear for the first time.
4. The report is based on cases documented by United Nations peacekeeping and political missions as well as country teams. As such, it is only indicative of the scale and character of sexual violence globally. It is noteworthy that the increased presence of Women’s Protection Advisers in the field has made a tangible contribution to improving the quality of information and analysis received.¹ Moreover,

¹ To date, 20 Women’s Protection Advisers have been deployed in six settings to, among other things, support implementation of the monitoring, analysis and reporting arrangements on conflict-related sexual violence and to facilitate dialogue with parties to conflict.



since the establishment of the post of my Special Representative on Sexual Violence in Conflict, ground-breaking gains have been made in terms of traction with national authorities, accountability and engagement with armed forces and groups, though momentous challenges remain.

II. SEXUAL VIOLENCE AS A THREAT TO INTERNATIONAL PEACE AND SECURITY: OVERVIEW OF CURRENT AND EMERGING CONCERNS

5. Sexual violence during and in the wake of conflict continues to be dramatically underreported because of the risks, threats and trauma faced by those who come forward. These risks affect not only the survivors, but also witnesses, human rights defenders, service providers, journalists, justice officials and others who seek to ensure that sexual violence is no longer suffered in silence. Despite the political momentum and visibility gained in recent years, the reality on the ground is that many Governments have not been able to create an environment in which survivors feel safe to report sexual violence. The fear of stigmatization and reprisals is almost universal, and often compounded by a sense of futility stemming from the limited services available and the painfully slow pace of justice. Even in settings where primary health care is available, further capacity-building and resources are urgently needed to help frontline staff deliver comprehensive care, including mental health and psychosocial support. In situations of live conflict, such as the Central African Republic, Iraq, Somalia, South Sudan, the Sudan and the Syrian Arab Republic, service provision is further impeded by access restrictions and a climate of fear.
6. In 2014, sexual violence against adolescent girls, including incidents of rape, sexual slavery and forced marriage, continued to be a disturbing trend. The ideological opposition of extremist groups to the education of girls has placed them at heightened risk of abuse. Other trends include the use of sexual violence as a form of persecution to forcibly displace populations as well as the vulnerability of displaced and refugee women and girls to sexual abuse. The threat or use of sexual violence as a form of ill-treatment in detention settings (often against men and boys) is evident in many situations. The targeting of individuals on the basis of their (actual or perceived) sexual orientation has come to light as a form of social control employed by certain armed groups in the Syrian Arab Republic, Iraq and elsewhere. In recent months, sexual violence in the context of rising violent extremism has captured the attention of the world. This transnational threat makes it more urgent than ever to confront the challenge of engaging non-State actors.
7. Displaced civilians fleeing their homes in fear for their lives owing to instability in the Syrian Arab Republic or the Horn of Africa remain at high risk, even when they reach the supposed refuge of neighbouring countries. There have been rising numbers of displaced civilians in the Sudan (Darfur) over the past year, with attendant reports of sexual violence. In the Democratic Republic of the Congo, vulnerability persists both for those displaced internally and those who seek to cross the border into neighbouring Angola or the Republic of the Congo. Forced dispossession effectively denies women a vital source of livelihood. In Colombia, women working with displaced communities and calling for land restitution have been targeted by armed groups and subjected to repeated sexual assault. Around the world, both urban and camp environments pose considerable risks of sexual exploitation for women and girls. Particular attention must be paid to the underlying political economy of violence, including competition for the control of natural resources and mining settlements by armed groups, which correlates with increased civilian displacement, human trafficking and sexual abuse, as witnessed in the Democratic Republic of the Congo and elsewhere. Since civil unrest began in South Sudan in December 2013, there have been 53,079 new arrivals at the Kakuma refugee camp in Kenya, many of them unaccompanied minors, with a corresponding increase in reports of sexual assault, teenage pregnancies and forced marriage. Similarly, in Dadaab camp, sexual violence has increased as the population has grown, with safety and community protection mechanisms (such as lighting and fencing) yet to be established in the new sections of the camp.
8. Sexual violence perpetrated by State actors or armed groups associated with the State remains of grave concern in countries such as the Sudan (Darfur), South Sudan, the Syrian Arab Republic and the Democratic Republic of the Congo. Indeed, in recent years, particular emphasis has been placed on the responsibility of Governments to protect the civilian population. This has been exemplified by such actions as the appointment of advisers to fight sexual violence and the adoption of codes of conduct and action plans by militaries, as occurred in the Democratic Republic of the Congo and Côte d'Ivoire, or zero-tolerance policies for the armed forces, as exists in Colombia and Nepal. However, non-State



actors account for the vast majority of incidents, and engaging them raises political and operational challenges. Sexual violence perpetrated by non-State armed groups, including those pursuing extremist ideologies in Iraq, Syria, Somalia, Nigeria, Mali, Libya and Yemen, was of grave concern during 2014 and efforts to degrade or destroy the capacity of groups like Islamic State in Iraq and the Levant (ISIL), Al-Shabaab, Boko Haram, Ansar Dine and Al-Qaida affiliates are an essential part of the fight against conflict-related sexual violence.

9. As in 2013, political will to end conflict-related sexual violence was demonstrated by both affected States and the international community at large. The United Kingdom of Great Britain and Northern Ireland hosted the Global Summit to End Sexual Violence in Conflict, held in London in June 2014. At this forum, several States made new commitments and the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict was launched. Senior military leaders, including army chiefs of staff, addressed the role of the security sector in this effort. Representatives of Côte d'Ivoire, the Democratic Republic of the Congo and the Federal Government of Somalia described initiatives that were under way to fight sexual violence. Funding was pledged to support these processes, as well as reparations for survivors and resources for the International Criminal Court Trust Fund for Victims. In addition to high-level advocacy, greater support is needed to enhance the capacity of grass-roots women's organizations and frontline service providers to meet elevated expectations.
10. Indeed, the era of silence has been replaced by international recognition that the shame of sexual violence resides not in the victims but in the perpetrators and any party that condones or conceals their conduct. However, serious concerns persist about official denials and efforts to downplay these crimes, including pressure to induce victims and witnesses to withdraw their complaints. Evidence of sexual violence is not always readily apparent or easily traced, hence the need for timely, independent and transparent investigations, linked to services and survivor care.
11. Across the varied contexts examined in the present report, a common point is that waves of conflict-related sexual violence take place against a backdrop of structural gender-based discrimination, including in formal and informal systems of law, and the exclusion of women from political life. For example, the disempowerment of women that attends the rise of violent extremism is not incidental, but systemic. In countries where conflict-related sexual violence is most prevalent, safe abortion is inaccessible or illegal and survivors face the risk of becoming victims of "honour" or "morality" crimes, as well as economic marginalization. Often, women and girls are subjected to sexual violence when they are engaged in tasks that are socially prescribed on the basis of gender, such as collecting firewood or water, as documented in Darfur, the Democratic Republic of the Congo and northern Nigeria. Moreover, the occurrence of many incidents reveals that it is precisely the mechanisms of coping with conflict that place women and girls at risk of sexual violence, whether it be forced displacement to escape the fighting, early marriage to "protect" daughters or sexual exploitation as a means of survival. Some women even face double victimization if they report crimes to predatory security officials or are compelled to marry the perpetrator as a form of traditional settlement, as documented in Somalia, South Sudan and elsewhere. These dynamics affirm that efforts to prevent conflict, foster equality and build gender-responsive institutions are central to eradicating the scourge of sexual violence.

III. SEXUAL VIOLENCE PERPETRATED IN THE CONTEXT OF RISING VIOLENT EXTREMISM

82. The confluence of crises wrought by violent extremism has revealed a shocking trend of sexual violence employed as a tactic of terror by radical groups. Egregious forms of conflict-related sexual violence have been perpetrated by extremist groups in Iraq, Mali, Nigeria, Somalia and the Syrian Arab Republic, including rape, sexual slavery, forced marriage, forced pregnancy and forced abortion, including as a form of religious and ethnic persecution. Conflict environments that are conducive to extremism, such as in Libya and Yemen, will also require close attention.
83. The patterns highlighted in this report demonstrate that sexual violence is not incidental, but integrally linked with the strategic objectives, ideology and funding of extremist groups. It is used to advance such tactical imperatives as recruitment; terrorizing populations into compliance; displacing communities from strategic areas; generating revenue through sex trafficking, the slave trade, ransoms, looting and the control of natural resources; torture to elicit intelligence; conversion and indoctrination through forced marriage; and to establish, alter or dissolve kinship ties that bind communities.



84. Sexual violence by extremist groups arises from discrimination and dehumanization based on gender, sexual orientation, ethnic and political or religious identity, in particular the subordination of women and girls. Indeed, the same ideology and objectives that motivate Boko Haram to abduct women and girls in Nigeria also spur ISIL to enslave women and girls in the Syrian Arab Republic and Iraq. Common to such cases is the assault on women's rights and bodies that presages the advance of extremist groups. As these groups harbour aspirations to statehood, the control of women's reproductive capacity is vital to nation building and to raising a generation in their own image. For this reason, "marriage bureaux" have been established in areas under ISIL control to encourage women to marry fighters and "bride prices" have been paid by armed groups in Yemen on behalf of fighters. Modern communications technology has been exploited in the service of an ideology at odds with the modern world: social media has converted brutality into a form of propaganda to incite, radicalize and attract recruits.

85. Countering extremism, and the flow of funds and fighters to these groups, must include efforts to empower women and address the spectrum of crimes of sexual violence that extremist groups propagate. At the same time, deeper engagement by and consultation with the community will be required, including with traditional and religious leaders who must help to break the silence surrounding sexual violence and redirect the shame and stigma to the perpetrators. Classical counter-terrorism efforts have been notoriously gender blind. The convening by the Security Council of a high-level meeting on foreign terrorist fighters, held in September 2014, marked an emerging recognition that members of extremist groups enslave, rape and forcibly marry women and girls. The Council adopted resolution 2178 (2014), in which it called for the empowerment of "youth, families and women" as part of an overarching strategy to prevent the spread of terror. It is critical that the international community deepen its information base on the nature, scope and objectives of sexual violence carried out by radical groups in order to define appropriate interventions, in consultation with women and affected communities. At the same time, counter-terrorism measures by Governments, security forces and allied groups must respect fundamental human rights and the commitments made by States to end sexual violence in conflict. Moreover, the surge in violent extremism and the urgency of addressing it do not negate the need for sustained resolve and resources to combat protracted conflict-related sexual violence in other settings of concern.

VI. RECOMMENDATIONS

98. The information presented in my report underscores the need to promote gender equality and women's empowerment in order to address the root causes of conflict-related sexual violence, transform harmful social norms and counter the rise of extremism. The following recommendations outline critical prevention and response measures to combat conflict-related sexual violence. In their implementation, I continue to emphasize the need for national ownership, leadership and responsibility. The United Nations stands ready to support national authorities in their efforts.

99. I urge the Security Council:

(a) To recognize that in addition to being employed as a tactic of war, as noted in resolution 1820 (2008), sexual violence can also constitute a tactic of terror. Accordingly, efforts to prevent and address sexual violence should be closely and strategically aligned with efforts to prevent violent extremism;

(b) To fully integrate the issue of conflict-related sexual violence into the work of relevant Security Council sanctions committees, including the Al-Qaida Sanctions List, as part of the criteria for the imposition of targeted measures;

(c) To continue to employ all means at its disposal to influence parties to conflict to comply with international law, including by referring matters to the International Criminal Court. Referrals should apply to individuals who commit, command or condone, by failing to prevent or punish, sexual violence, in line with the modes of liability under international criminal law;

(d) To give due consideration to the risk factors and warning signs of sexual violence in its monitoring of the security situation in conflict-affected countries, particularly in relation to elections, civil strife and mass population movements, such as forced displacements or expulsions;



(e) To use its periodic field visits to focus attention on conflict-related sexual violence concerns and to solicit the views of affected communities, women's civil society organizations and associations of survivors, as appropriate.

100. I encourage Member States, donors and regional organizations:

(a) To support the delivery of multi-sectoral assistance for survivors of sexual violence, including the full range of sexual and reproductive health services; HIV awareness and response measures; and psychosocial, legal and livelihood support, ensuring differentiated and appropriate responses for children and male survivors. Reintegration support, including shelters and economic livelihood programmes, should be made available to individuals released from situations of abduction, forced marriage, trafficking and sexual slavery, as survivors and their families often face social and economic marginalization;

(b) To support the United Nations to engage in dialogue with both State and non-State parties to elicit commitments to prevent and address conflict-related sexual violence and to help ensure compliance with these commitments as well as supporting engagement with faith-based leaders to counter religious justifications for violence and reduce the stigma faced by survivors;

(c) To continue to emphasize the central role of civil society, including women's organizations, in community-level prevention, protection and support, as well as that of journalists and human rights defenders who report on and respond to these traditionally hidden crimes and can play a pivotal role in changing social norms, attitudes and behaviours;

(d) To support the accelerated deployment of both Women's Protection Advisers and Gender Advisers, in order to facilitate the full implementation of all resolutions on conflict-related sexual violence and women, peace and security, including by ensuring that these posts are reflected in the regular budgets of United Nations missions. Given the scope of work under both portfolios, it is critical that these functions remain distinct and complementary;

(e) To provide adequate and timely funding to ensure that ceasefire and peace agreements comprehensively address conflict-related sexual violence and are effectively implemented, including by supporting the deployment of gender expertise to mediation teams and monitoring mechanisms; deploying both female and male observers; and training monitoring teams on how to effectively monitor for conflict-related sexual violence. In addition, women should have the opportunity to participate meaningfully in all ongoing peace processes, including in relation to the Central African Republic, Libya, Mali, Myanmar and South Sudan;

(f) To explicitly reflect the need to address conflict-related sexual violence in all justice, security sector reform and disarmament, demobilization and reintegration initiatives, including as they relate to corrections and police capacity;

(g) To continue to support the use of innovative operational tools developed by partners of United Nations Action against Sexual Violence in Conflict, including Addressing Conflict-Related Sexual Violence: An Analytical Inventory of Peacekeeping Practice, the matrix of early-warning indicators of conflict-related sexual violence and guidance on ethical data collection and strengthening medico-legal services, and to adopt national and regional early warning systems in conflict-affected areas that are attuned to gender dynamics and signs of impending, ongoing or escalating sexual violence and refer to the Guidance Note of the Secretary-General on Reparations for Conflict-related Sexual Violence in the design, development and implementation of reparations programmes;

(h) To encourage troop- and police-contributing countries to increase the number of women deployed to peacekeeping operations and to systematically integrate the Department of Peacekeeping Operations-Department of Field Support training materials on conflict-related sexual violence into their pre-deployment training;

(i) To encourage private sector actors to make specific commitments, including to undertake due diligence to ensure that proceeds from materials acquired for their production processes do not fund armed groups that perpetuate conflict and conflict-related sexual violence;

(j) To give due consideration to accepting conflict-related sexual violence as a form of persecution that is



grounds for the recognition of refugee status for individuals affected or under threat, as sexual violence is not only a risk faced by displaced persons but also a tactic that has been used to induce displacement;

(k) To fulfil the political commitments and pledges made at the historic Global Summit to End Sexual Violence in Conflict convened by the Government of the United Kingdom in June 2014 as well as in the communiqué for the Call to Action on Protecting Women and Girls in Emergencies adopted in November 2013;

(l) To continue cooperation with regional and sub-regional organizations, including the sharing of experiences and information. I encourage regional and sub-regional bodies to establish concrete mechanisms to prevent and respond to conflict-related sexual violence, specifically its cross-border dimensions, and note that such efforts may be advanced through the appointment of a dedicated high-level envoy within their secretariats;

(m) To ensure that all efforts to document and investigate sexual violence are guided by the principles of security, confidentiality, anonymity and informed consent.

101. In line with my emphasis on fostering national ownership, I urge Member States to draw upon the expertise of the Team of Experts on the Rule of Law and Sexual Violence in Conflict and to support the experts in building the capacity of civilian and military justice systems, as part of broader efforts to strengthen institutional safeguards against impunity. I urge donors to ensure sustainable funding for this valuable resource.

102. I urge all Member States to support the efforts of United Nations Action against Sexual Violence in Conflict and its Multi-Partner Trust Fund, particularly for the development and implementation of comprehensive national strategies to prevent and address conflict-related sexual violence in a coordinated and holistic manner.

1.2. GENERAL ASSEMBLY REPORT OF THE SECRETARY-GENERAL: ACTION AGAINST GENDER-RELATED KILLING OF WOMEN AND GIRLS

United Nations

S/2015/203



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Item 107 of the preliminary list^{*}

Crime prevention and criminal justice

Action against gender-related killing of women and girls

Report of the Secretary-General

III. CONCLUSIONS AND RECOMMENDATIONS

41. Drawing on the conclusions and recommendations endorsed by the open-ended intergovernmental expert group on gender-related killing of women and girls held in Bangkok in November 2014, the General Assembly may wish to consider the following practical measures, for action by Member States to more effectively prevent, investigate, prosecute and punish gender-related killing of women and girls:

(a) Consider ways to enhance international cooperation in these cases, including by ratifying and



implementing the United Nations Convention against Transnational Organized Crime and the Protocols thereto, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Convention on the Rights of the Child and the Protocols thereto, the Rome Statute of the International Criminal Court, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and their follow-up mechanisms;

(b) Consider translating and disseminating the Latin American model protocol for the investigation of gender-related killings of women, to be used as a model for regional and country-level adaptation, and training justice officials on its contents and use, in collaboration with relevant entities of the United Nations system;

(c) Review, evaluate and update national laws to effectively address gender-related killing of women, including, where appropriate, by providing for specific offences or aggravating circumstances and by reviewing legislation to ensure that it does not include discriminating factors — “passion”, “violent emotion”, “honour” or “provocation” — that allow perpetrators to escape criminal responsibility;

(d) Strengthen the capacity of criminal justice institutions to prevent, investigate, prosecute, punish and remedy gender-related killing of women, including by:

- (i) Assessing the effectiveness of laws;
- (ii) Implementing training programmes and awareness campaigns;
- (iii) Identifying gender stereotypes and discrimination within institutions, providing adequate sanctions for discrimination, sexual misconduct and other misconduct, and ensuring that measures are taken to address them;
- (iv) Promoting the recruitment, employment and appropriate working conditions of women in the legal and law enforcement professions, especially at the decision-making level;

(e) Promote and enhance coordination, at all levels of government, between institutions mandated to prevent, investigate, prosecute, punish and remedy gender-related killing of women, as well as coordination with other relevant sectors, including civil society and the education, health, social services and security sectors;

(f) Provide sufficient human, technical and financial resources for the implementation of laws, policies, procedures and practices to prevent and respond to gender-related killing of women, including by adopting gender-sensitive budget policies, as well as monitoring and accountability procedures;

(g) Monitor the implementation of laws, policies, procedures and practices and gender-sensitive budget policies to prevent and respond to gender-related killing of women, and evaluate their effectiveness and impact, including from a gender perspective, through transparent, participatory and inclusive processes;

(h) Continue and enhance international cooperation and technical assistance to address capacity gaps and the exchange of information on the implementation of promising practices to prevent and address gender-related killing of women, with the support of relevant United Nations entities and competent regional institutions and civil society, including academic and research institutions.

DATA COLLECTION AND ANALYSIS

(i) Identify elements that could be used at the national and international levels to characterize and classify forms of gender-related killing of women, in particular for statistical purposes;

(j) Strengthen the collection, analysis and dissemination of qualitative and quantitative data on gender-related killing of women and other forms of violence against women, focusing on factors such as age, racial and ethnic origin, criminal history of perpetrators, the relationship between the victim and the perpetrator, modus operandi, context and motive, taking special care to include reports on violence in rural and marginalized areas and the situation of specific groups of women and victims;

(k) Collect and analyse data in an integrated manner to consider the links between gender-related killing and different forms of violence against women, such as human trafficking or harmful practices;



(l) Collect and analyse data on indirect forms of gender-related killing of women, such as deaths due to poorly conducted and clandestine abortions; maternal mortality; deaths from harmful practices; deaths linked to human trafficking, drug dealing, organized crime and gang-related activities; the death of girls from simple neglect, through starvation or ill-treatment; and deliberate acts of omission by the State;

(m) Collect and publish official data and information regularly and transparently, in a format that responds to the needs of a variety of audiences, while respecting confidentiality and preserving the safety and privacy of the victims; and consider the provision of technical assistance in this regard as a matter of priority;

(n) Analyse data from a gender perspective, involving, to the extent possible, relevant government agencies, civil society, academia, victims' representatives and the international community;

(o) Provide adequate human and financial resources for the collection, analysis and dissemination of data on gender-related killing of women;

(p) Provide regular and institutionalized training to relevant personnel on technical and ethical aspects of the collection, analysis and dissemination of data on gender-related killing of women.

PREVENTION

(q) Promote changes in social norms and attitudes harmful to women through early and continuous educational programmes and awareness-raising and by conducting or encouraging work with schools and local communities;

(r) Encourage news media to adopt codes of ethics regarding gender-sensitive reporting on violence against women cases, to ensure that victims' dignity and privacy is respected and to avoid the dissemination of harmful and degrading gender stereotypes, as well as to promote gender equality and non-discrimination;

(s) Adopt legislation, policies and measures to prevent lethal risks to women victims of violence and to protect victims and witnesses, including simple, quick and accessible protection and restraining or barring orders, adequate and targeted risk assessment and management strategies, and confidential 24/7 hotlines, shelters or other measures to facilitate access to safety, assistance and support; such protective measures should not be dependent on the initiation of a criminal case;

(t) Promote women's safety audits in order to create a safer urban environment, for example, improved street and underpass lighting and more frequent police patrols in areas prone to molestation of women;

(u) Promote strategies and measures by relevant authorities and civil society to encourage the reporting and early detection of violence that may result in gender-related killing of women;

(v) Regulate the possession, use and storage of firearms by violent offenders, including by providing for ownership and possession restrictions, in particular where violence against women has been reported, and carry out awareness-raising campaigns on the risks of exposure to firearms in domestic disputes;

(w) Review, evaluate and update criminal and civil laws in order to ensure that all forms of violence against women are penalized and prohibited and, if not, to adopt measures to do so, in order to prevent such violence from escalating into gender-related killing of women;

(x) Promote and facilitate coordination among government agencies and courts responsible for different areas of law, such as family law, civil law, criminal law and immigration law, in order to coherently prevent and address violence that could lead to gender-related killing of women;

(y) Promote the rehabilitation and re-education of perpetrators, including by developing and evaluating treatment and reintegration, rehabilitation and education programmes that prioritize the safety of the victims;

(z) Ensure the provision of adequate human and financial resources for the prevention of gender-related killing of women and for the monitoring and evaluation of results;

(aa) Evaluate prevention programmes and interventions to build a knowledge base on what works to prevent violence against women.

INVESTIGATION, PROSECUTION AND SANCTIONS

(bb) Adopt or review criminal policies, including investigatory and prosecutorial policies, to address potential risk factors that can lead to lethal violence against women;

(cc) Ensure that competent authorities investigate, prosecute and sanction each case of gender-related killing of women with due diligence and without delay;

(dd) Ensure that women have equal protection under the law and equal access to justice, including, where relevant, legal aid, language support services and witness protection;

(ee) Minimize the risk of secondary victimization during criminal investigations, prosecutions and trials, inter alia, through testimonial aids and assistance for victims and witnesses;

(ff) When relevant, consider adopting an integrated, multidisciplinary and gender-sensitive approach to the investigation of gender-related killing of women, and promote and institutionalize close collaboration and appropriate information-sharing among institutions involved in the investigation of gender-related killing of women, respecting the victim's right to privacy;

(gg) Establish, where appropriate, specialized and multidisciplinary units within the police, provide prosecution services with specific expertise and sufficient human and financial resources and encourage the courts to gain specific expertise;

(hh) Develop and disseminate specialized manuals and protocols and provide regular and institutionalized training to officials involved in the investigation, prosecution and sanction of gender-related killing of women so as to ensure that they understand the gendered nature of violence, respond to the specific needs and vulnerabilities of the victims and conduct accountable and effective investigations and prosecutions;

(ii) Develop appropriate mechanisms and enhance capacities for forensic investigations to identify human remains and missing persons, such as centres for missing persons and DNA databases, to support the prosecution of gender-related killing of women;

(jj) Monitor and sanction criminal justice officials (police, prosecutors, interpreters and court officials) who deny women access to justice, including, for example, those who discriminate against women, refuse to apply legislation protecting women's rights or do not exercise due diligence in their official duties in cases involving violence against women, in particular gender-related killing of women;

(kk) Taking into account the responsibility of States to define and sanction criminal offences, ensure that appropriate sanctions for perpetrators of gender-related killing of women are in place that are proportionate to the gravity of the offence;

(ll) Provide adequate human and financial resources for the investigation and prosecution of gender-related killing of women.

VICTIM SUPPORT AND ASSISTANCE

(mm) Make respect for the cultural identity, ethnicity, social origin and language of victims of gender-related killing of women an integral part of the legal framework and institutional policies and practices;

(nn) Ensure that the needs of women in vulnerable conditions are addressed, including those of elderly women, rural women, indigenous women, foreign women, immigrant women in irregular situations, women victims of human trafficking, children of women victims of violence, women with disabilities and women in armed conflict;

(oo) Ensure that laws, policies and practices concerning child victims and witnesses are child-sensitive and respect the rights of the child;

(pp) Protect and support victims, drawing on the important role of civil society and ensuring effective cooperation between all relevant State agencies, including, where appropriate, the judiciary, prosecution services, law enforcement agencies and local and regional authorities;

(qq) Ensure that health and other social services are available to the victims, independent of their cooperation with the justice system;

(rr) Ensure that adequate and effective judicial mechanisms are available to all victims to allow them to access justice and to enable them to obtain redress for harm suffered;

(ss) Ensure that victims are provided with prompt and accurate information regarding their rights and available measures for protection, support, assistance and judicial mechanisms to obtain redress, in a way that takes into account the diversity of their language, ethnicity, race, social and economic origin, including by implementing public information campaigns;

(tt) Enable victims to participate in the criminal proceedings, taking into account their dignity, well-being and safety, while respecting the legal rights of defendants and to prepare victims for social reintegration;

(uu) Ensure the availability of adequate reparations, including restitution and compensation, in criminal, civil and administrative proceedings, that respond to the diverse needs of victims, in accordance with national law;

(vv) Provide adequate human and financial resources to guarantee the rights of victims of gender-related killing of women.

1.3. COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN GENERAL RECOMMENDATION ON WOMEN'S ACCESS TO JUSTICE

23 July 2015
CEDAW/C/GC/33

INTRODUCTION AND SCOPE

The right of access to justice for women is essential to the realization of all the rights protected under the Convention on the Elimination of All Forms of Discrimination against Women.

In this general recommendation, the Committee examines the obligations of States parties to ensure that women have access to justice. These obligations encompass the protection of women's rights against all forms of discrimination with a view to empowering them as individuals and as rights holders. Effective access to justice optimizes the emancipatory and transformative potential of law.

Discrimination may be directed against women on the basis of their sex and gender. Gender refers to socially constructed identities, attributes and roles for women and men and the cultural meaning imposed by society on biological differences, which are constantly reproduced amongst the justice system and its institutions. Under article 5 (a) of the Convention, States parties have an obligation to expose and remove the underlying social and cultural barriers, including gender stereotypes, that prevent women from exercising and claiming their rights and impede their access to effective remedies.

In practice, the Committee has observed a number of obstacles and restrictions that impede women from realizing their right of access to justice on a basis of equality. They include a lack of effective jurisdictional protection offered by the States Parties. In relation to all dimensions of access to justice. These obstacles occur in a structural context of discrimination and inequality, due to factors such as gender stereotyping,



discriminatory laws, intersecting or compounded discrimination, procedural and evidentiary requirements and practices, and a failure to systematically ensure that judicial mechanisms are physically, economically, socially and culturally accessible to all women. All of these obstacles constitute persistent violations of women's human rights.

Discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms, and gender-based violence, which particularly affect women, have an adverse impact on the ability of women to gain access to justice on an equal basis with men. In addition, discrimination against women is compounded by intersecting factors that affect some women to a different degree or in different ways than men and other women. Grounds for intersectional or compounded discrimination may include ethnicity/race, indigenous or minority status, colour, socio-economic status and/or caste, language, religion or belief, political opinion, national origin, marital and/or maternal status, age, urban/rural location, health status, disability, property ownership, and being lesbian, bisexual, transgender women or intersex persons. These intersecting factors make it more difficult for women from those groups to gain access to justice.

Discrimination may be directed against women on the basis of their sex and gender. Gender refers to socially constructed identities, attributes and roles for women and men and the cultural meaning imposed by society on biological differences, which are constantly reproduced amongst the justice system and its institutions. Under article 5 (a) of the Convention, States parties have an obligation to expose and remove the underlying social and cultural barriers, including gender stereotypes, that prevent women from exercising and claiming their rights and impede their access to effective remedies.

GENERAL ISSUES AND RECOMMENDATIONS ON WOMEN'S ACCESS TO JUSTICE

16. On availability of justice systems, the Committee recommends that State parties:

(b) In cases of violence against women, ensure access to financial aid, crisis centres, shelters, hotlines, and medical, psychosocial and counselling services;

17. On accessibility of justice systems, the Committee recommends that State parties:

(f) Establish justice access centres, such as "one-stop centres", which include a range of legal and social services, in order to reduce the number of steps that a woman has to take to access justice. Such centres could provide legal advice and aid, start the legal proceedings and coordinate support services for women across such areas as violence against women, family matters, health, social security, employment, property and immigration. They must be accessible to all women including those living in poverty and/or in rural and remote areas;

19. On provision of remedies, the Committee recommends that State parties:

(e) In cases of sexual violence in conflict or post conflict situations, mandate institutional reforms, repeal discriminatory legislation and enact legislation providing for adequate sanctions in accordance with international human rights standards. Determine reparation measures in close participation with women's organizations and civil society in order to help overcome the discriminations that pre-existed the conflict;

(f) Ensure that, where human rights violations occur during conflict or in post conflict contexts, the non-judicial remedies, such as public apologies, public memorials and guarantees of non-repetition granted by truth, justice and reconciliation commissions are not used as substitutes for investigations into and prosecutions of perpetrators; reject amnesties for gender-based human rights violations such as sexual violence against women and reject statutory limitation for prosecution of such human rights violations (See General Recommendation 30);

25. The Committee recommends that States parties:

(c) Take measures to avoid marginalization of girls due to conflicts and disempowerment within their families and the resulting lack of support for their rights; abolish rules and practices that require parental or spousal authorization for access to services such as education, health, including sexual and reproductive health, as well as access to legal services and justice systems; and

(d) Protect women and girls against interpretations of religious texts and traditional norms creating barriers to their access to justice resulting in discrimination against them.



C. Stereotyping and gender bias in the justice system and the importance of capacity building

29. The Committee recommends that State Parties:

- (a) Take measures, including awareness-raising and capacity-building for all actors of justice systems and for law students to eliminate gender stereotyping and incorporate a gender perspective in all aspects of the justice system;
- (b) Include other professionals, in particular health professionals and social workers, who can play an important role in cases of violence against women and in family matters, in these awareness raising and capacity building programmes;
- (e) Raise awareness on the negative impact of stereotyping and gender bias and encourage advocacy related to stereotyping and gender bias in justice systems, especially in gender-based violence cases;

Awareness-raising through civil society, media and Information and Communication Technologies (ICTs)

35. The Committee recommends that States parties:

Emphasize the role that the media and ICTs can play in dismantling cultural stereotypes about women in connection with their right to access justice. Particular attention should be paid to challenging cultural stereotypes concerning gender-based discrimination and violence, including domestic violence, rape and other forms of sexual violence;

D. Criminal law

51. The Committee recommends that States parties:

- (a) Exercise due diligence to prevent, investigate, punish and provide reparation for all crimes committed against women, whether such crimes were perpetrated by State or non-State actors;

58. The Committee recommends that States parties:

- (c) Ensure that cases of violence against women, including domestic violence, are under no circumstances referred to any alternative dispute resolution procedures.

SUMMARY OF THE LATIN AMERICAN MODEL PROTOCOL FOR THE INVESTIGATION OF GENDER-

1.4. LATIN AMERICAN MODEL PROTOCOL FOR THE INVESTIGATION OF GENDER-RELATED KILLINGS OF WOMEN (FEMICIDE/FEMINICIDE)

RELATED KILLINGS OF WOMEN (FEMICIDE/FEMINICIDE)²

Women are subjected to multiple forms of discrimination that violate the principles of equality of rights and respect for human dignity. The Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee) has identified gender-based violence as one of the manifestations of discrimination that has as its primary cause gender inequality—in other words the asymmetrical power relations between men and women.

Gender-based violence is “a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”

² This document is a summary of selected chapters of the publication of the Latin American Model Protocol for the investigation of gender-related killings of women developed by the Regional Office for Central America of the United Nations High Commissioner for Human Rights (OHCHR) with the support of the Americas and the Caribbean Regional Office of United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), in the framework of the United Nations Secretary General’s Campaign UNiTE to End Violence against Women, available at www.oacnudh.org and www.onumujeres.org. It consists of direct quotations from the original document.



The UN Declaration on the Elimination of Violence against Women defines violence against women (VAW) as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

This definition includes violent acts committed against women because they are women, for gender-based motivations, or those that disproportionately affect women. The gender-related killing of a woman, codified in some legal systems as **“femicide”** or **“feminicide”** and in others as aggravated homicide, is the most extreme form of violence against women. It takes place within the family or in public spaces and can be committed by private individuals or carried out or tolerated by state agents. It amounts to the violation of several fundamental rights of women that are established in the core international human rights instruments—especially the right to life, the right to physical and sexual integrity, and the right to personal liberty.

Although its diverse manifestations illustrate different interrelations between socio-cultural norms and practices, **femicide is a global phenomenon** that has reached alarming proportions. Its victims are women in different developmental stages, conditions, and situations. The available reports reveal that gender related killings of women show signs of disproportional violence before, during, or following the criminal act. This indicates a particular brutality and ruthlessness against the body of the woman. In many cases the killing is the final act on a continuum of violence. This is particularly true in the cases of intimate femicide committed by the husband, long-term partner, boyfriend, etc. These aspects are some of the distinguishing elements that separate these killings from other homicides.

To combat VAW, international human rights law has established a set of norms and standards that oblige states to take measures to prevent, investigate, punish, and redress violations. The due diligence standard is a frame of reference to analyse the acts or omissions of the relevant state entities and evaluate states’ compliance with international obligations.

Access to justice is a **central element** of these obligations. The due diligence standard is based on the supposition that states must have adequate justice systems that ensure access to criminal and restorative justice mechanisms for women victims of violence.

The United Nations Secretary General’s 2006 study, *Ending Violence against Women*, describes the **effect that impunity has on the lives of women** as follows:

Impunity for violence against women compounds the effects of such violence as a mechanism of male control over women. When the State fails to hold the perpetrators of violence accountable and society explicitly or tacitly condones such violence, impunity not only encourages further abuses, it also gives the message that male violence against women is acceptable or normal. The result of such impunity is not solely the denial of justice to the individual victims/survivors, but also the reinforcement of prevailing gender relations and replicate inequalities that affect other women and girls as well.

Several international institutions have drawn attention to **deficiencies and irregularities found in many investigations and judicial proceedings in cases of VAW**, especially in cases of killings. They highlight, inter alia:

- prejudices, stereotypes, and practices of authorities operating within the justice system that, along with other factors, obstruct the ability of women victims of violence to exercise their rights to justice and reparation;
- delays in the initiation of investigations;
- slowness of the investigations or inactivity in the case files;
- negligence and irregularities in gathering and assessing evidence and in identifying victims and responsible parties;
- management of the investigations by authorities that are not competent and impartial;
- exclusive emphasis on physical and eye-witness evidence;
- low credibility assigned to the statements of victims and their family members; inadequate treatment of victims and their families when they seek to collaborate in the investigation;
- loss of information;
- misplacement of victims’ remains in the custody of the Public Prosecutor’s Office;
- failure to analyze the attacks on women as part of a global phenomenon of gender-based violence.



OBJECTIVES OF THE MODEL PROTOCOL

The *Latin American Model Protocol for the investigation of gender-related killings of women (femicide/feminicide)* offers guidelines for carrying out an effective criminal investigation of gender-related killings, in accordance with the international obligations assumed by States. Specifically, the Model Protocol aims to:

- 1.) Provide general guidance and lines of actions to improve the practice** of public servants working in the justice system, forensic experts, and other specialized personnel²⁰ during the investigation and prosecution of gender-related killings of women in order to hold the responsible parties accountable and provide reparations for the victims.
- 2.) Promote the incorporation of a gender perspective** in the action of the institutions in charge of investigating and punishing killings of women, as well as providing reparations for the victims, including the police, prosecutors' offices, forensic institutions, and other judicial entities.
- 3.) Offer practical tools to guarantee the rights of victims, survivors, and their families.** These tools take into consideration the witnesses, experts, organizations, complainants, and other persons that may intervene in the proceedings.

SCOPE OF THE MODEL PROTOCOL

The Model Protocol has been developed from a holistic perspective, incorporating knowledge from several disciplines (law, sociology, legal medicine, and forensics), in the hopes of serving as a practical instrument for those working in the justice system. The Protocol is the result of the work of several UN entities and public institutions in Latin America, as well as academics, non-governmental organizations that defend women's rights, and other activists. Investigation and criminal prosecution and punishment as mechanisms to prevent VAW

Preventing all forms of VAW is a vitally important aspect of state policies aimed at breaking the cycles of abuse and mistreatment that lead to the killings of women. Holding perpetrators accountable in the justice system is a fundamental mechanism for preventing violence against women. For this reason the Model Protocol focuses on the criminal proceeding.

The courses of action proposed should not be seen as absolute or the only way but rather as flexible guidelines that should be adapted to the judicial system, to the conditions of the social context, to the criminal manifestations, and to the degree of institutional capacity and strength of the criminal justice system in each country.

The guidelines included in the Model Protocol should be interpreted and adapted according to the norms, principles, and standards of international law and jurisprudence, as well as the legal frameworks of the countries in the region.

DIRECTION OF THIS MODEL PROTOCOL

The guidelines contained in this Model Protocol are **directed first and foremost to public servants** working in the administration of justice who participate in the tasks of investigation, trial, and potential punishment of the people accused of these crimes, including the police officers, prosecutors, investigators, defense attorneys, civil parties, judges, experts, and medical and forensic specialists. The different chapters of this document include specific recommendations for each of these categories of actors according to different stages of the criminal process.

The recommendations and guidelines for action included in the Model Protocol may also be useful for the work of civil society organizations, UN agencies, and other experts and professionals in social science, law, and public health fields who are interested in the prevention of violence against women in the region, assistance to victims, and the prosecution of femicides.

CRIMES ADDRESSED IN THE MODEL PROTOCOL

The Model Protocol can be applied to the investigation of the violent deaths of women, regardless of whether



national law has expressly codified the crime of femicide/feminicide or incorporated an aggravating factor for sentencing or qualifying the crime of homicide. The Protocol applies to the investigation of all gender-related killings of women. Since gender relations are socially constructed, the distinctive characteristic of femicide is the influence of the socio-cultural conditions in which these types of crimes occur. Therefore, they must be interpreted beyond the individual context.

Additionally, these guidelines can be useful for the investigations of other homicides, especially those that are perpetrated against persons based on their sexual orientation, gender identity, or gender expression. This could include for example transgender or lesbian and gay people.

The Protocol may also be useful for the investigation of other extreme forms of VAW— such as enforced disappearances, trafficking, forced prostitution, etc.—in which the manifestations of violence reveal elements of gender-based superiority, discrimination, or hate.

CASES IN WHICH THE MODEL PROTOCOL CAN BE APPLIED

The Model Protocol guidelines should be systematically applied **to all cases involving the violent death of a woman**, given that behind every death there may be a femicide even if at the outset there is no suspicion of foul-play.

For example, **suicides of women** should be investigated under the indications of the Model Protocol for three main reasons: First, many suicides are the consequence of prior violence that the woman has suffered. Second, suicide is a common way for perpetrators to hide a homicide, presenting the death as a suicide or accidental death. Finally, suicide may be used by those in charge of the criminal investigations as a justification for closing the case and not investigating it.³

In cases of the **apparent accidental death of a woman**, prudence warrants applying the Model Protocol when there is even the slightest indication or doubt that the case may involve a killing. Applying the Protocol does not under any circumstances impede the general investigation of the facts. On the contrary, it allows for facts to be identified and then also associated with any possible femicidal context.

The Model Protocol can be applied to cases of recent **deaths as well as deaths that occurred in the more distant past**. When the investigation is launched much after a femicide has been committed, it will be impossible to identify some of the signs and indicators on the body and in the crime scene in which she was found, given that they may have disappeared or been altered. What is important is to start from a supposition that the elements associated with femicide might have been present in the past and some of them may continue to be there.

COMPLEMENTARITY OF THE MODEL PROTOCOL WITH OTHER PROTOCOLS

The Model Protocol does not displace or substitute other criminal investigation instruments or strategies that are currently being used.

The Model Protocol does not displace or substitute other instruments or strategies for criminal investigation that are currently being used. These important antecedents should be taken as references. The Model Protocol is compatible with these instruments and is complementary to existing professional ethics codes and protocols for action, both at the national and international levels.

In the same way, the references that the Model Protocol presents can and should be completed and expanded with other instruments, such as anthropological, cultural, or other studies that allow for going deeper into aspects of cases.

³ It must not be forgotten that the “gender-related” reasons that lead perpetrators to end the lives of women are not individual factors born from the particular experience or psycho-biography of these men. Rather these are common factors in society—some men use these to carry out crimes, but a large part of society uses them to minimize violence against women and to justify its consequences.



STRUCTURE OF THE MODEL PROTOCOL

The Model Protocol does not displace or substitute other criminal investigation instruments or strategies that are currently being used.

The Protocol has the following structure:

Chapter I provides clarification on the concepts “femicide” and “feminicide” with special emphasis on their structural factors as well as the different criminal classifications and types.

Chapter II analyzes the international standard of due diligence as applied to lethal violence against women.

Chapter III presents several recommendations for carrying out an adequate gender analysis and consideration of inter-sectional discriminations throughout the investigation.

Chapter IV offers guidelines for designing a methodological program or plan for investigating these crimes.

Chapter V focuses on the role of forensic medicine and criminal analysis in order to contribute the elements and references necessary for prosecutors to identify the characteristic context of a femicide.

Chapter VI presents elements for elaborating the hypothesis and lines of inquiry in the theory of the case that is presented in the indictment.

Chapter VII offers recommendations for guaranteeing the rights of indirect victims, family members, and witnesses in the investigation and trial of femicides. Finally, Chapter VIII sets out several recommendations to ensure the appropriation and effective application of the Model Protocol.

The bibliography includes references to the protocols, guides, and manuals that were consulted in the development of this Model Protocol, as well as several human rights reports that may be of interest to readers.

Finally, several annexes have been included.

THE DEFINITIONS OF THE CONCEPTS “FEMICIDE” AND “FEMINICIDE”

There is **no agreed-upon definition of the concepts “femicide” and “feminicide.”** Their scope, content, and implications are still the subject of ample debate in the social sciences as well as in politics and national legislative processes. Their accepted meanings vary according to the point of view from which they are examined and the discipline that is addressing it.

Femicide. The process of conceptualizing the phenomenon of the killing of females because they are females gained importance in the 1970s when Diana Russell coined the expression “femicide.” This expression emerged as an alternative to the neutral term “homicide” with the political objective of recognizing and making visible the discrimination, oppression, inequality, and systematic violence against women that in its most extreme form culminates in death. According to Russell’s definition, femicide applies to all forms of sexist killing that is “motivated by a sense of entitlement to or superiority over women, by pleasure or sadistic desires toward them, or by an assumption of ownership of women.”

The definition has varied according to the transformation of the phenomenon itself and with the debate among a wide range of activists, academics, and women’s rights defenders. In Latin America, the expression “femicide” has been defined in different ways, such as “the misogynist killing of women by men;” “the mass killing of women committed by men based on their group superiority;” or “the extreme form of gender-based violence, understood as violence inflicted by men against women in their desire to obtain power, domination, and control.” These definitions signal the existence of broader patriarchal systems of oppressing women.

Feminicide. Building on the previous concept, the Mexican researcher Marcela Lagarde coined the term “feminicide.” She defined it as the act of killing a woman based only on the fact she is female, but she conferred on this concept a political meaning aimed at denouncing the lack of response from the state in these cases and the failure to fulfill its international obligations, including the duty to investigate and



punish. Thus, for Lagarde femicide is a state crime. It speaks to a “fracture in the rule of law that favors impunity. The concept refers to the full set of facts that characterize the crimes and disappearances of girls and women in cases in which the response of the authorities is one of omission, inertia, silence, and a failure to act to prevent and eradicate these crimes.

Julia Monárrez considers that “femicide includes the progression of violent acts that range from emotional and psychological abuse, battery, verbal abuse, torture, rape, prostitution, sexual assault, child abuse, female infanticide, genital mutilation, domestic violence, and all policies tolerated by the State that cause the death of women.”

Despite these conceptual differences, the normative frameworks in the region use the terms “femicide” and “feminicide” indiscriminately to refer to the gender-related killing of women, distinguishing them from the gender-neutral concept of homicide.

The murder of women because they are women, whether it is committed within the family, a domestic partnership, or any other interpersonal relationship, or by anyone in the community, or whether it is perpetrated or tolerated by the state or its agents.

THE STRUCTURAL FACTORS OF FEMICIDES/FEMINICIDES

Femicides reflect a culture of hate and discrimination toward women and indicate a failure of the criminal justice system to punish the perpetrators of these crimes.

Independent of the terminology employed these situations of VAW present shared characteristics: they are based “in a culture of violence and discrimination” and have their “roots in concepts of the inferiority and subordination of women.” These “are not isolated, sporadic or episodic cases of violence; rather they represent a structural situation and a social and cultural phenomenon deeply rooted in customs and mindsets.” Employing the concept of femicide/feminicide and its differentiation from homicide brings to light the extreme expression of violence that results from the position of subordination, marginalization, and risk in which women find themselves.

According to the UN Special Rapporteur on Violence against Women, its causes and consequences, the socio-economic situations of the countries that present the highest rate of femicides reveal the “persistent penetration of a sexist culture in which institutionalized gender inequality serves as the basis for gender discrimination and helps legitimize the subordination of women and the differential treatment in terms of access to justice.”

TYPES OF FEMICIDES

Several manifestations of gender-related killings of women have been identified in the Latin American experience. The following is a classification of the different types of femicide:

- *Intimate femicide.*
- *Non-intimate femicide.*
- *Child femicide.*
- *Family femicide.*
- *Femicide because of association/connection.*
- *Systematic sexual femicide*
- *Unorganised systematic sexual femicide.*
- *Organized systematic sexual femicide*
- *Femicide because of prostitution or stigmatized occupations.*
- *Femicide because of trafficking.*
- *Femicide because of smuggling.*
- *Transphobic femicide.*
- *Lesbophobic femicide.*
- *Racist femicide.*
- *Femicide because of female genital mutilation.*



THE INTERNATIONAL DUE DILIGENCE STANDARD APPLIED TO CASES OF FEMICIDE

There is a rule of customary international law that obliges States to prevent and respond to acts of violence against women with due diligence.

The obligation to prevent encompasses all those measures of a legal, political, administrative and cultural nature that ensure the safeguard of human rights, and requires that any possible violation of these rights is considered and treated as an unlawful act.

In the administration of justice, the gender myths and prejudices that different parties in criminal proceedings might use can seriously affect the rights of women to access justice and to a fair trial.

- International jurisprudence has drawn attention to different aspects in the administration of justice that reveal the wrongful gender stereotyping that affects women and girls.
- States have the obligation to transform gender stereotypes and social and cultural patterns.
- States should guarantee access to justice as well as an appropriate and efficient reparation to victims.
- Reparations should have a transformative role and be addressed with a gender perspective.

EVALUATING THE ADEQUACY OF CRIMINAL INVESTIGATIONS

The requirements of independence and impartiality apply to each of the stages of the proceeding.

Impartiality demands that judicial actions are not affected by prejudices or stereotypical notions. The principle of prosecutorial discretion underscores the importance of collecting the basic evidentiary elements in a reasonable time and without prompting'.

HOW TO IDENTIFY A FEMICIDE?

While all femicides can be classified as homicides under the terms of the current criminal legislation in the countries in the region, **not all homicides of women are eligible to be classified as femicides**. Even though the death of a woman may be violent, for example a traffic accident, the motive of the act may not be related to her condition as a female and not be gender-related. This might be the case for example when the killing of a woman results as a consequence of the theft of her vehicle.

In order to establish the criminal act with specificity, killings of women that have some indication of a motivation or context based in a culture of gender-based violence and discrimination must be treated as femicides.

The factors that differentiate the crime of femicide from the homicide of a man, and even from the common homicide of a woman, reveal that aim of the killing is to entrench and perpetuate the patterns that have been culturally assigned regarding what it means to be a woman: subordination, weakness, sentimentality, delicateness, femininity, etc. This means that the femicidal agent and his actions draw on cultural patterns rooted in the misogynist ideas of male superiority, discrimination against women, and disrespect toward her and her life. These cultural elements and system of beliefs make the perpetrator believe that he has sufficient determinative power over the lives and bodies of women to punish them, and ultimately, to preserve social orders of inferiority and oppression. These same cultural elements allow the perpetrator to feel reinforced in his manhood through this conduct.

BASIC GUIDELINES FOR THE INVESTIGATION OF FEMICIDES

1. While all femicides can be classified as homicides, not all homicides of women are eligible to be classified as femicides. The latter refers to the gender-related killings of women.
2. Femicides take place in the private as well as the public sphere, in diverse circumstances and scenarios, and with criminal characteristics that can vary even within the same country.
3. The success of investigations in cases of suspected femicide depends on the use of a gender perspective in the initial design and throughout the execution of the methodological plan for the investigation.
4. A fundamental aspect for demonstrating femicide is the analysis of the context of discrimination and of the types of violence inflicted on the victim before and after the killing.
5. The criminal classification of gender-based killings of women must be achieved considering international law and jurisprudence as well as the particular elements and restrictions set out by the legal norms of each country.



SIGNS AND INDICATORS OF A FEMICIDE: MEDICAL-FORENSIC ACTION AND CRIMINAL ANALYSIS

Certain indicators exist for the occurrence of a femicide and it is important to keep them in mind during an investigation. The Model Protocol sets out the key factors to consider in the different investigation steps to identify a femicide and to differentiate between intimate femicides occurring within family or partner relations and sexual femicides.

Indicators for intimate femicides include the following:				
During the autopsy:	On the crime scene:	Circumstances surrounding the femicide:	Profile of the victim:	Profile of the perpetrator:
Excessive use of violence Most injuries located in vital zones Great intensity and force in the strikes and application of the homicidal weapon More than one homicidal method Hands as a direct homicidal method Injuries from different dates; Health problems as a result of gender-based violence	When cohabitating: most frequent place is the home Signs of aggression and symbolic violence No cohabitation: most frequent place is the victim's or aggressor's residence Other places: public spaces related to daily routine No effort to hide from possible witnesses (public spaces, daylight)	Separation or divorce Colder and more emotionally distant aggressors act when they reach the "point of no return" upon confirming that the woman will not return to them after separation Prior reports of gender-based violence Problems related to child custody or finances	Prior to violence in the relationship: semi-structured interview of surroundings Psychological autopsy; Physical consequences and changes caused by gender-based violence Psychological consequences and changes caused by gender-based violence Situation and health of the children: Possible impacts from gender-based violence	Prior to violence in the relationship: semi-structured interview Existence of elements associated with gender-based violence Behavior after the crime: voluntary submission to authorities, suicide or attempt Presence of elements identified as femicide/feminicide risk factors in gender-based violence

In the same manner signs for sexual femicide were identified. The Model Protocol states that every killing of a woman that evidences a direct or symbolic sexual component must be considered a femicide. However, the concept of "sexual homicide" is complex because a homicide of this type does not always reveal the sexual component in the result of the aggression. In sexual femicide "motivated by anger" there is a great degree of violence with grave injuries. In "sadistic" sexual femicides violence is an intimate part of the perpetrator's motivations and fantasies.

Furthermore, the Model Protocol explains how to build the theory of a case on three grounds: legal hypothesis, factual hypothesis and evidentiary hypothesis.

Indicators for sexual femicide include the following:			
During the autopsy:	Crime scene/ Circumstances:	Profile of the victim:	Profile of the perpetrator:
Injuries: - General characteristics of injuries of femicides; - Injuries to subdue the victim; - Femicides "motivated by wrath": great violence directed against any part of the body; - "Sadistic" femicides/feminicides: great violence on genital areas and areas with sexual meanings for the perpetrator Signs and indicators of direct sexual conduct: Use of criminal investigation guides and protocols to search for, locate, document and collect indicators of all kinds that demonstrate the commission of a sexual aggression, both direct proof as well as those that have to be submitted to different types of analysis, especially DNA analysis Signs and indicators related to sexual fantasies: Independently of the injuries that may be produced to satisfy the sexual fantasies of the aggressor, elements should also be sought that would reveal situation of control, submission, torture, and humiliation of the victim, in the latter through the position in which the body is left following the femicide	Signs related to the characteristics of the act (form of carrying out the attack, the intention of transferring to another place or note, surprise approach or initiation of prior contact, etc.) Signs related to the femicidal motivation; Signs related to the circumstances of the act (number of aggressors, resistance of the victim, etc.); Possibility that there may be several crime scenes Indicators in the "positive" and in the "negative" Common and frequent characteristics in the places related to femicides	Characteristics of her routine that may be used by aggressors as reference points to plan the aggression and select the victim Analyze the circumstances of accessibility and availability, especially prostitution Very important to reconstruct the 24 hours prior to the sexual attack "Psychological autopsy"	Risk factors associated with sexual femicides/feminicides: Malamuth: Sexual offender recidivism risk Static-99 SVR-20 Characteristics related to "organized" or "disorganized" behavior; Characteristics related to motive; Especially if there is a greater catathymic or compulsive component in his motive;



THE RIGHTS OF INDIRECT VICTIMS⁴, FAMILY MEMBERS, AND WITNESSES IN THE INVESTIGATION AND PROSECUTION OF FEMICIDE

The Model Protocol emphasizes the protection of the rights of indirect victims, family members and witnesses during the investigation and prosecution of femicides. Thus, the public prosecutor's office and its role as guarantor of the rights of victims, guiding principles for working with indirect victims and family members and the victim's right to participation as to information, assistance, protection and reparation are explained:

The new role of the **Public Prosecutor's Office** has emerged together with a redefinition of the victim in the accusatorial criminal procedure. The victim is no longer a third party distant from the proceeding but has become an independent procedural subject.

Administration of Criminal Justice: Guarantees such as access to justice, equality before the law, the right to a defense, the impartiality and independence of the courts, and the effectiveness of rights apply for the defendant as well as the victim. The prosecution and courts should guarantee that at every stage victims are able to articulate their claims and present evidence.

GUIDING PRINCIPLES FOR WORKING WITH INDIRECT VICTIMS AND FAMILY MEMBERS IN CASES OF FEMICIDES

- Free legal counsel and representation
- Respect for human dignity and differences:
 - Appropriate measures should be taken to ensure their safety, physical and psychological wellbeing and privacy, as well as those of their families.
 - Human rights norms and practices must be followed, especially those with the specific aim to prohibit discrimination based on race, sex, ethnic origin, religion, national origin, sexual preference or orientation, disabilities, or other condition.
 - If the indirect victims or family members belong to an ethnic group, someone with at least a minimal knowledge of the customs and traditions of the group should be incorporated into the investigation team.
 - Interviews with indirect victims and family members should be held in appropriate places that guarantee privacy and confidentiality.
 - The representatives of the Public Prosecutor's Office should adopt special measures to avoid the re-traumatization of children or adolescents.
- Avoiding secondary victimization, meaning the personal costs for the victim associated with his or her intervention in a criminal proceeding in which that crime is tried. This includes the traumatizing effects of police or judicial questioning, the medical-forensic exams, contact with the perpetrator, the treatment of what happened by the media etc.

Participation in a broad sense: information, assistance, protection, and reparation

The participation of the victims in the investigation and proceeding should be real and not just formal. Victims must be accompanied throughout the entire legal action.

Victims should have all the **information** that would allow them to understand the meaning of the criminal proceeding. The operation of the Public Prosecutor's Office should tend toward reestablishing the connections of trust through transparency and detailed communication about the case.

The participation of the victims should be guaranteed through attention and **assistance** programs that respond to their physical and material needs (eg.: transportation, food, and lodging to facilitate their participation in the proceedings). Likewise, participation should be supported by a clear offer of psychological and social orientation, attention, and treatment so that victimization is not aggravated.

Without guarantees of **protection and security**, there simply can be no institutional expectation that the victims and family members participate. It is necessary that in the relevant cases, the authorities carry out studies to gauge the level of risk that may be faced by the victims.

⁴ For the purposes of this document, "victims" will be understood as: persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.



Reparation as a process demands the active participation of the victims. The communicative and participative process that takes place in the courtroom, the way that victims are treated during statements and questioning, or the way a prosecutor intervenes to avoid that the perpetrator presents justifying discourse related to gender-based violence that they committed are integral elements of the process of reparation, among others. Through participation victims are able to assimilate in the best way possible the recognition of their victimization and the re-establishment or remedy of the rights that were violated. Generally, it can be stated that a full and effective reparation of the harms suffered by the indirect victims of femicides should include measures of **restitution** (returning victim to situation prior to the violation); **compensation** (for the harms caused by the punishable conduct); **rehabilitation** (recovery from physical and psychological traumas suffered because of the crime); **satisfaction** (moral compensation to re-establish the dignity of the victims); and guarantees of **non-repetition** (commitment from the state to carry out actions aimed at eradicating the factors that cause femicidal violence). In cases of femicides that were committed by public servants, it is indispensable that the state adopt effective measures to avoid the repetition of these acts.

RECOMMENDATIONS FOR THE APPROPRIATION AND APPLICATION OF THE MODEL PROTOCOL

Finally, the Model Protocol holds recommendations for the appropriation and application of the Model Protocol to the States, to judicial, legal and prosecutorial organisms and to the media.

1. Recommendations to States:

Policies to prevent all forms of violence against women. States in the region must promote the creation, implementation, and strengthening of multiple programs to prevent all forms of violence against girls and women in order to prevent femicides. These policies, which rely on the coordination of all agencies of the state, must be directed at eliminating the risk of lethal violence, establishing critical routes of assistance to women, and applying early detection measures or risk assessments for victims that seek protection from state agencies. To guarantee their effectiveness, a system of indicators should be built to allow for assessing results in the short, medium, and long-term.

The obligation to act with due diligence to guarantee that women have de jure and de facto access to effective legal remedy implies that States must **adopt legal and administrative measures that promote the upholding of the human rights of women and eliminate impunity for cases of femicide.**

It is necessary to create a **favorable environment and an effective and efficient legal culture** to ensure that the truth about the facts is revealed; to satisfy the demands of the right to truth for indirect victims, family members, and society as a whole; to punish those responsible for the crime; and to provide comprehensive reparation and establish measures or guarantees of non-repetition. An important support for building such an environment can come from a public discussion at the societal level, which should also reach the educational processes of the new generations of citizens, about the values that reinforce practices of violence against women, the need to energetically reject those practices, and to definitively eradicate them.

Inter-institutional coordination. The integration of this Model Protocol into the legal practice of each state implies strengthening the structure of the investigation and criminal prosecution and trial charged with revealing the truth about femicides. For this, where they do not exist, exchange and collaboration protocols should be implemented between members of the police, the investigative bodies, and the prosecutorial teams, with special emphasis on the channels of communication and operational procedures between the different authorities that are involved, such as the police, public hospitals, professional associations, etc.

Assigning human, technical, and financial resources. The legislative and executive branches must prioritize the assignment of public resources, technical but also human and financial, in order to ensure the appropriation of the recommendations presented throughout this document as well as their correct application, monitoring, evaluation, and continuous review.

Information systems and public policy planning. To improve the processes of designing, planning, and evaluating public policies, as well as to achieve the adequate implementation of the recommendations set forth in this document, systems and procedures should be established or optimized to register the data about the killings of women. Improving the quality of the information that is produced by agencies within the criminal justice system, especially those in charge of forensics will allow for gaining a deeper knowledge



about the phenomenon of lethal violence that affects women and improving the criminal investigation capacity of the prosecutorial entities.

Information registries. It is advisable that the data bases and other administrative and judicial registries include information that allows for appropriately characterizing the victims of the killings of women to be able to definitively identify when dealing with a femicide, taking into account the following aspects: characteristics of the victim, age, sex (including the possibility of registering sexual orientation and gender identity), her place of origin, level of education, socioeconomic profile; the relation of the victim to the suspected perpetrator (partner or ex-partner, family member, acquaintance, or other); the characteristics of the perpetrator, age, among others; the characteristics of the crime, form and means used; place of the crime, within the home, outside the home; harms suffered as a consequence of the death of the woman; and if possible, other consequences or new manifestations of violence related to the death of the direct victim. In every case, the personal information that has been provided by the victims and the family members should only be incorporated into data bases with express prior authorization by the interested parties and with informed consent regarding the possible uses. Additionally, this information should be protected in accordance to international standards on the matter.

Publication of information. It is important that States produce official national data about the number of killings of women, under the characterizations of killings of women by intimate partners or non-intimate persons or intimate femicide and non-intimate femicide. This will allow national information systems to take into account the cases of femicides that take place in the context of intimate partner relations separately and identify all those perpetrators in different situations, whether femicides by association, connected to organized crime, human trafficking or situations of forced migration, sex commerce, or sexual violence or rape in public spaces.

Public information about femicides should be transparent, generating specific systems of information that are directed at avoiding the mismanagement of information. It is important to generate technical protocols and agreements to identify the statistics that each country can identify, so as to rely on official statistics that allow for comparing and classifying data at the international level. This will assist in the control of public policies and the generation of debate about these criminal phenomena and the consequences within society.

Duly analyzed information should be published regularly in bulletins or in official systems of communications in accordance with the international standards regarding the quality of statistical information.

Exchange of information and analysis. In order to evaluate how public policies are functioning, there should be opportunities generated for connecting and dialoguing between the directives of relevant entities in order to institutionalize the exchange, analysis, and sharing of information related to the criminal prosecution of femicides, as well as the study of the effectiveness of the measures taken to prevent them.

2. Recommendations to judicial, legal and prosecutorial organisms:

Incorporation of the Model Protocol into the framework of the criminal-justice policy of the state. State and federal authorities in charge of the prevention and investigation of femicide should study the measures necessary to incorporate the recommendations set out in this Model Protocol into the plans, programs, and projects of the institution of the justice system, in order to maximize the prevention of gender-based violence and the capacity of the criminal justice system to investigate, judge, and punish femicides.

Constant monitoring of investigation and sentencing policies. In coordination with the institutions in charge of the policies for preventing gender-based violence, it is important to establish processes of monitoring and evaluating the application and impact of the investigation and trial policies for femicides, through the development of directives based on the principles set out in this document. The constant monitoring and the dynamic of implementation of the policies will allow for the constant updating of the recommendations set forth in this Model Protocol.

Capacity-building and training of public servants. To promote the adoption of a focus on gender and the rights of women throughout the process of attention, investigation, and trial of cases of violence, it is essential to establishing multi-disciplinary training, re-training, and professionalization programs for those public servants involved in the tasks of: attending to and advising victims; police, forensic, or prosecutorial investigations; and trials. These training programs should take place together with the training schools of the Public Prosecutor's



Office, the national human rights institutions such as the Ombudsman's Offices, the judicial organs of each country, and academia in general. To this end, the content of this Model should be integrated into the curriculum of these capacity-building schools.

Methodologies for increasing sensitivity to a gender perspective. Methodologies for increasing sensitivity to gender and transforming gender stereotypes and discriminatory prejudices should be designed and implemented, taking into account a perspective of intersectionality and multiple discriminations. Likewise, continuing education programs should integrate the content of this corpus juris regarding the rights of women as well as the analysis of the specific obligations that are derived from normative mandates in the legislative, administrative, and judicial spheres.

Women's access to justice. To guarantee women's access to justice, it is advisable to establish programs of mass public information to inform all women victims of violence of the prevention mechanisms, the routes of state assistance, and the scope of their rights.

Likewise, measures should be implemented to eliminate discriminatory practices, cultural and material barriers, as well as the messages that impede and obstruct the right of access to justice for women and girls. For this, programs can be created for advising and providing psychosocial assistance to family members of the victims of femicides; funds and budgetary allocations can be established with public resources to ensure the free legal representation of indirect victims; and the number of translators of indigenous languages that are available for the prosecutorial units investigating the killings of women can be increased.

Finally, a system for disciplinary and judicial punishments may be designed for those public servants implicated in discriminatory, racist, or sexist practices against indirect victims or family members in cases of femicides.

Access to justice and regional differences. In those geographic zones in countries that have reduced conditions of development or where the inhabitants experience precarious socioeconomic situations, it is recommended that policies be established to facilitate and guarantee the access to the judicial stages and recourses through training of public servants and professionals specialized in attention to victims and the prevention and investigation of femicides. Nonetheless, to best implement this Model Protocol, these recommendations should be adapted to the particularities of and the resources of each region or province.

Victim reparation. A reparation fund should be established for the victims of gender-related killings of women, in order to create transformative policies that comprehensively address economic, social, moral, and social dimensions that harm caused the victims. In particular, administrative reparation programs for victims should be designed for those cases where the active or passive participation of state agents in carrying out a femicide has been demonstrated. These programs should adopt effect measures to avoid the repetition of these crimes and consider the possibility of establishing mechanisms for vetting public servants involved in these crimes.

3. Recommendations to the media:

Informative coverage and social responsibility of the media. It is important that the States, civil society, and the media agree on appropriate mechanisms for guaranteeing the informative coverage of gender-related killings of women in accordance with international standards and adopting as basic principles the respect for the human dignity of the victims and family members, transparency, and impartiality in the coverage of the information. In this task the adoption of codes of ethics for the media's treatment of violence against women can be very useful.

The social responsibility that print and digital media, as well as social networks, should show in the coverage of the killings of women is made concrete through the transparent management of the information and the deconstruction of discriminatory and sexist stereotypes, prejudices, and practices. For example, these cases should be handled in the strongest way, reflecting the injustice that the victims have suffered, challenging the myths and the beliefs that promote violence against girls and women, and finally, ensuring that the narrative of the facts and the assigning of responsibility do not convert the violence into an object of desire or curiosity for the listening or viewing public.



1.5. GUIDEBOOK ON CEDAW GENERAL RECOMMENDATION NO. 30 AND THE UN SECURITY COUNCIL RESOLUTIONS ON WOMEN, PEACE AND SECURITY⁵

SECTION 1: INTRODUCTION

The *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention) and the United Nations Security Council resolutions (UNSCRs) on Women, Peace and Security (WPS) have established important obligations for the protection of women's human rights and achievement of gender equality relative to issues of international peace and security.

The adoption by the *Committee on the Elimination of All Forms of Discrimination against Women* (the Committee) of General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations (GR30) in October 2013 strengthened and made clear the applicability of the Convention to a diverse range of settings affected by conflict and political crises. It also set out and affirmed the Convention's linkages with the UN Security Council's Women, Peace and Security (WPS) agenda. Brought together, they offer a substantive framework to ensure that gender equality becomes integral to conflict prevention, peacebuilding and post-conflict reconstruction and accountability.

GENERAL RECOMMENDATION NO. 30

General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations (2013) works to support States to meet their obligations under the Convention, including their due diligence obligations, before, during and after conflict. GR30 clarifies the application of the Convention to situations of armed conflict and political crises, to prevention and resolution of conflicts and to the various complex peace building and post-conflict reconstruction processes. GR30 outlines the content of the obligations assumed by States parties and also makes suggestions to non-State actors.

GR30 is broad in its thematic scope and covers gender-based violence and trafficking; participation; access to education, employment and health, and rural women; displacement, refugees and asylum-seekers; nationality and statelessness; marriage and family relations; security sector reform and disarmament, demobilization and reintegration of combatants; constitutional and electoral reform; and access to justice.

BACKGROUND TO THE UNITED NATIONS SECURITY COUNCIL WOMEN, PEACE AND SECURITY RESOLUTIONS

Since 2000, the Security Council has adopted a series of resolutions under the theme of WPS, which focus on issues of women's human rights and gender equality in conflict prevention, conflict and post-conflict situations. UNSCR 1325 (2000) was the first WPS resolution and was unanimously adopted on 31 October 2000. The resolution marked the first time the Security Council addressed the differential and at times unique impact of armed conflict on women. The resolution stressed the importance of women's equal and full participation as active agents in peace and security. Six subsequent resolutions have been adopted by the Security Council to develop and enforce meaningful implementation and oversight mechanisms for the WPS agenda.

SECTION 3: THE CONTENT OF GENERAL RECOMMENDATION NO. 30 AND THE WPS RESOLUTIONS

General Recommendation No. 30 and the WPS resolutions support and reinforce each other in several important ways and are most effective when used together. The WPS resolutions are especially significant in that they bring women's human rights in conflict and post-conflict settings into the Security Council, the UN's highest decision-making body on peace and security. Further, the WPS resolutions have ensured that

⁵ Authors/editor(s): Aisling Swaine and Catherine O'Rourke - See more at: <http://www.unwomen.org/en/digital-library/publications/2015/8/guidebook-cedawgeneralrecommendation30-womenpeacesecurity#sthash.EdfDpyfJ.dpuf>



the Security Council is alert to issues of women, peace and security in all of its decision-making.

Nevertheless, due to the Security Council's responsibility to maintain, and to respond to threats to, international peace and security, the WPS resolutions also constrain the WPS agenda to a narrow timeframe and mandate. GR30, by contrast, is more expansive in its attention to the full panoply of women's human rights in conflict and post-conflict settings. Moreover, CEDAW's application to States before, during and after conflict means that the Convention offers a unique framework for recognizing and redressing continuities between human rights violations experienced by women and girls in conflict and post-conflict settings.

THEMATIC ISSUES ADDRESSED BY GENERAL RECOMMENDATION NO. 30 AND THE UN SECURITY COUNCIL WOMEN, PEACE AND SECURITY RESOLUTIONS

1. Conflict Prevention

- CEDAW General Recommendation No. 30

Paras 29 - 38: Draws on the Convention's requirements that States focus on the prevention of conflict and ensure women's right to participate in preventive actions, diplomacy and mediation processes

Recommendations:

- Reinforce and support women's in/formal prevention efforts
- Ensure women's participation in multi-level prevention efforts
- Establish early warning systems that include gender-related preventive actions and indicators
- Address gendered impact of international arms trade and ratify the Arms Trade Treaty (2013)

- UN Security Council Women, Peace & Security Resolutions

Women's role in the prevention of conflict is addressed across all of the WPS resolutions, as follows:

- Member States to increase participation of women in decision-making in conflict prevention at multi-levels (UNSCR 1325 OP 1, UNSCR 2122 OP 7)
- Secretary-General and Special Envoys to invite women to participate in discussions related to conflict prevention (UNSCR 1820 OP 12) Secretary-General, Special Envoys and Special
- Representatives to report on progress in inviting women to discussions on conflict prevention (UNSCR 2122 OP 2 (c))

2. Gender-based Violence

- CEDAW General Recommendation No. 30

Paras 34 – 38: Draws on the Convention's provisions for the prohibition of violence against women and girls as a form of discrimination and violation of women's human rights (Arts. 1, 2, 3, 5(a) of CEDAW)

Recommendations:

- Prohibit and prevent all forms of gender-based violations by State and non-State actors
- Ensure access to justice, including through gender-sensitive investigation procedures, adoption of policies and protocols for security sectors, peace keepers, and capacity development for judiciary
- Collect standardized data on range of violence in multiple areas and affecting different categories of women
- Ensure provision of multi-sectoral referral-based services

- UN Security Council Women, Peace & Security Resolutions

Violence against women and girls is addressed across all the resolutions. Particular provisions include:

- Parties to armed conflict to take measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict (UNSCR 1325 OP 10)
- Parties to armed conflict to cease sexual violence as a tactic of conflict; to protect civilians from such violence
- UN Secretary-General with other UN entities to ensure training of all humanitarian and peacekeeping personnel to prevent and respond to sexual violence
- States contributing troops and police to ensure steps to address sexual violence
- UN entities to ensure protection and provision of services for sexual violence during and after conflict
- States, UN entities, financial institutions to develop and strengthen judicial, health and civil society institutions to address sexual violence (UNSCRs 1820, 1888, 1960, 2106)



3. Trafficking (including sexual exploitation and abuse)

- CEDAW General Recommendation No. 30

Paras 39- 41: Draws on the Convention's requirement that States make all efforts to suppress trafficking in women and girls, making these provisions specifically relevant to conflict affected contexts (Art. 6)

Recommendations:

- Prevent, prosecute and punish trafficking and provide protection to women, including the displaced
- Adopt zero tolerance policies on trafficking and on SEA by multiple actors (peacekeeping, security institutions and others)
- Adopt gender-sensitive migration policies, and regional agreements for the rights of women and girls

- UN Security Council Women, Peace & Security Resolutions

The WPS resolutions do not specifically address trafficking, but do address SEA:

- Implement and strengthen efforts for a policy of zero tolerance for SEA by UN personnel, including provision of training on these issues (UNSCR 1960 OP 16, UNSCR 2106 OP 15)
- Member States to take preventive action and ensure accountability, including prosecutions for nationals involved in SEA (UNSCR 1820 OP 7, UNSCR 1888 OP 21, UNSCR 1960 OP 16, UNSCR 2106 OP 15)

4. Participation

- CEDAW General Recommendation No. 30

Paras 42 – 47: Draws on obligation of States parties under the Convention to ensure women's equal representation in public and political life and at international levels (Arts. 7 & 8)

Recommendations:

- Ensure statutory instruments do not prohibit women's participation in conflict prevention, management and resolution (Paras 29-33 also address participation in prevention more broadly)
- Ensure women's civil society organizations are included in all peace initiatives
- Provide leadership training to women for roles in post-conflict political processes
- Third-party States to include women in senior positions in mediation and negotiation processes

- UN Security Council Women, Peace & Security Resolutions

Participation is addressed in relation to multiple issues across the resolutions. In particular,

- States, UN Secretary-General and heads of regional organizations to ensure and improve representation and involvement of women and support for women's initiatives in prevention, management and resolution of conflict, including mediation (UNSCR 1325 OP 1, 2, 8 (b); UNSCR 1820 OP 12; UNSCR 1888 OP 16, 17; UNSCR 1889 Op 1, 15; UNSCR 2106 OP 5)
- States, UNSG, Special Envoys to focus more attention on women's leadership and participation in conflict resolution and peacebuilding (UNSCR 2122 OP 1, 7)

5. Access to Education, Employment and Health, and Rural Women

- CEDAW General Recommendation No. 30

Paras 48 – 52: Draws on the Convention's provisions to eliminate discrimination in the areas of education, health, employment and particular obstacles facing rural women (Arts. 10, 11, 12, 14)

Recommendations:

- Develop specific programmes to ensure girls' access to education at multi-levels post-conflict
- Ensure economic recovery strategies promote gender equality and address women's role in the formal and informal sectors
- Ensure the provision of sexual and reproductive health care and provision of services for HIV prevention, treatment and support

- UN Security Council Women, Peace & Security Resolutions

The resolutions address the need for women's access to health and wider services, and to economic opportunities. Provisions include:

- States, UN entities and financial institutions to develop and strengthen the provision of non-discriminatory health services to address sexual violence (UNSCR 1820 OP 13; UNSCR 1888 OP 13) and violence (UNSCR 2106 OP 19, 20; UNSCR 2122 OP 11)
- States, UNSG, international and regional organizations to enhance women's participation in economic decision-making in recovery processes; to design strategies responding to socio-



economic needs such as income generating activities (UNSCR 1889 OP 1, 10, 15).

6. Displacement, Refugees and Asylum Seekers

- CEDAW General Recommendation No. 30

Paras 53 – 57: Draws on applicability of the Convention to all stages of the displacement cycle, including forced displacement, refugees, asylum seeking and statelessness (Arts. 1, 2, 3, 15)

Recommendations:

- Take preventive measures to protect against forced displacement and violence against women and girls
 - Address multiple and intersecting forms of discrimination and investigation of the same, address the risks and needs affecting displaced women and girls
 - Promote participation and inclusion of women in all decision-making processes relating to humanitarian assistance and management of displacement
- UN Security Council Women, Peace & Security Resolutions

The resolutions address the situation of women and girls displaced by the conflict as follows:

- All actors involved in peace negotiation to ensure a gender perspective is applied in all repatriation, resettlement, reintegration initiatives; ensure the protection of civilians in camps; women's needs to be addressed in the design of humanitarian assistance (UNSCR 1325 OP 8 (a), 12; UNSCR 1889 OP 12)
- UN Secretary-General and UN agencies to develop mechanisms to protect women and girls from violence in UN managed camps for refugees and internally displaced persons (UNSCR 1820 OP 10)

7. Access to Justice

- CEDAW General Recommendation No. 30

Paras 38 (a, b, c, f), 74 - 81: Draws on provisions of the Convention on equality of women before the law and the need to address all violations of women's human rights, including underlying structural sex and gender-based discrimination, in all facets of post-conflict accountability and rule of law reforms (Arts 1, 2, 3, 4, 5 (a), 15)

Recommendations:

- Prohibit amnesties for gender-based violations
 - Ensure that judicial and non-judicial transitional justice mechanisms promote women's human rights, are informed by the participation of women in all aspects of design and implementation and address gender based violations
 - Ensure gender-sensitive investigation procedures and services are available in security and justice sectors to respond to violence against women and girls, tackle impunity for these violations
 - Provide for remedies tailored to women's human rights and needs, tackle stigma and discrimination, provide legal aid and measures that promote access to justice
- UN Security Council Women, Peace & Security Resolutions
- All of the resolutions draw from their basis in international humanitarian law to promote access to justice. Some set out specific provisions in this regard, including:

- States (and in some cases all parties to conflict) to fulfil responsibility to end impunity and prosecute sexual and other forms of violence as elements of genocide, war crimes, and crimes against humanity;
- to ensure that all victims of sexual violence have equal protection under the law and equal access to justice; to exclude sexual and other forms of violence against women from amnesty (UNSCR 1325 OP 1; UNSCR 1820 OP 4; UNSCR 2122 OP 1, 12, 13, 14)
- States to undertake legal and judicial reform to ensure access to justice and redress for sexual violence (UNSCR 1888 OP 6)
- States, UN and civil society to support national authorities in capacity development of judicial and law enforcement systems; UNSG to deploy a team of experts to assist in this regard (UNSCR 1888 OP 8, 9)
- States to support UN entities in provision of expertise on sexual violence to Commissions of



Inquiry (UNSCR 2106 OP 9)

8. Security Sector Reform (SSR) and Disarmament, Demobilization and Reintegration (DDR)

- CEDAW General Recommendation No. 30

Paras 66-69: Draws on the Convention's guarantees of non-discrimination for women and girls
Recommendations:

- Develop DDR programmes in the framework of SSR and ensure that all SSR are gender and age sensitive
- Ensure equal access to women to DDR programmes and that women's and girls' needs are specifically addressed

- UN Security Council Women, Peace & Security Resolutions

The WPS resolutions require that the differing needs of women and men are considered in DDR and SSR programming, as follows:

DDR planning to be gender-sensitive (UNSCR 1325 OP 13)

- Provide full access to and address the needs of women and girls associated with armed groups in DDR programmes (UNSCR 1889 OP 13)
- Zero tolerance policy in SSR and vetting, include more women in security institutions (UNSCR 2106 OP 16 (b))

9. Constitutional & Electoral Reform

CEDAW General Recommendation No. 30

Paras 70 – 73: Draws on the Convention's provisions that national constitutions embody the principle of equality (Arts. 1-5 (a), 15)

Recommendations:

- Ensure women's equal participation in constitution drafting processes and that legislation embodies women's human rights as provided for in the Convention
- Ensure women's equal representation in elections, including through the use of temporary special measures
- Adopt zero tolerance policy to violence and intimidation of women participating in public life

- UN Security Council Women, Peace & Security Resolutions

The WPS resolutions promote women's and girls' equality and rights with respect to constitutional and electoral processes and specifically require:

- Attention to a gender perspective and the protection of women's human rights in the constitution and within the electoral system (UNSCR 1325, OP 8 (c))
- Women's full participation and safety in all phases of electoral processes (UNSCR 2122 OP 8)

The following two issues are addressed by GR30 but not explicitly by the WPS Resolutions:

10. Nationality and Statelessness

Paras 58-61: Draws on the Convention's requirement for women's equal right with men to acquire, change or retain their nationality (Arts. 1-3, 9)

Recommendations:

- Ensure measures to prevent statelessness are applied to all women and girls
- Protection to be available to stateless women and girls before, during and after conflict
- Guarantee access to and replacement of documentation for all women and girls and issued in their own name

11. Marriage and Family Relations

Paras 62-65: Draws on the Convention's requirements to eliminate discrimination against women in all matters pertaining to marriage and family life (Art. 15-16)

Recommendations:

- Prevent and punish forced marriage, forced pregnancy, abortion or sterilization of women and

1.6. REVIEW AND APPRAISAL OF THE IMPLEMENTATION OF THE BEIJING DECLARATION AND PLATFORM FOR ACTION AND THE OUTCOMES OF THE TWENTY-THIRD SPECIAL SESSION OF THE GENERAL ASSEMBLY - REPORT OF THE SECRETARY-GENERAL



United Nations

Economic and Social Council

E/CN.6/2015/3

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- girls in conflict-affected contexts
- Adopt legislation to overcome discrimination in women's ownership of property and right to inheritance

Commission on the Status of Women Fifty-ninth session 9-20 March 2015

Item 3 (a) of the provisional agenda

Follow-up to the Fourth World Conference on Women and to the twenty- third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century": implementation of strategic objectives and action in critical areas of concern and further actions and initiatives

D. VIOLENCE AGAINST WOMEN

112. The Platform for Action recognized violence against women as a violation of women's human rights and fundamental freedoms and as an obstacle to the achievement of equality, development and peace. The Platform for Action called on States to take integrated measures to prevent and eliminate violence against women, to study the causes and consequences of violence against women and to eliminate trafficking in women.
113. In recent years, United Nations intergovernmental and expert bodies have continued to strengthen the global normative framework on violence against women. Notably, the Commission on the Status of Women, at its fifty-seventh session, in 2013, adopted agreed conclusions that highlighted emerging issues, such as the role of information, communication and technology and social media, as well as particular forms of violence, such as gender-related killings/femicide and violence in public spaces.⁶ The General Assembly regularly adopts resolutions on the intensification of efforts to eliminate all forms of violence against women and addresses specific forms, such as trafficking in women and girls, female genital mutilations and violence against women migrant workers (see resolutions 68/137, 69/147, 69/149 and 69/150). Violence against women in conflict and post-conflict situations was addressed by the Committee on the Elimination of Discrimination against Women in its general recommendation No. 30, adopted at its fifty-sixth session, in 2013.⁷
114. The Human Rights Council also continued to address violence against women, including its particular forms, such as rape and sexual violence and child, early and forced marriages, violence against women human rights defenders and remedies for women who have been subjected to violence (see for example, Council resolutions 23/25 and 24/23). The Special Rapporteur on violence against women, its causes and consequences has examined several topics, such as multiple and intersecting forms of discrimination and violence against women, gender-related killings of women and State responsibility,

⁶ See E/2013/27 - E/CN.6/2013/11, chap. I, sect. A. http://www.un.org/ga/search/view_doc.asp?symbol=E/2013/27

⁷ See A/69/38, part two, chap. VII.



and the use of the standard of due diligence, in eliminating such violence.⁸

GLOBAL TRENDS

115. Recent global estimates show that 35 per cent of women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime.⁹ While there is some variation across regions, all regions have unacceptably high rates of violence against women. Among low- and middle-income regions, Africa has the highest proportion of women reporting either physical and/or sexual intimate partner violence or non-partner sexual violence, at 45.6 per cent, followed by South-East Asia (40.2 per cent), Eastern Mediterranean (36.4 per cent), the Americas (36.1 per cent), Western Pacific (27.9 per cent) and Europe (27.2 per cent).¹⁰ In high income countries, 32.7 per cent of women have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime. Owing to the limited availability of data and comparability challenges, an analysis of global and regional trends over time is not possible.
116. The most common form of violence experienced by women is intimate partner violence, which often leads to injuries and at times, results in death. As confirmed in a global study on homicide, almost half of female homicide victims are killed by their intimate partner or family members, whereas the figure for men is just over 1 in 20 homicide victims.¹¹ Alarmingly, the majority of women who experience violence do not seek help or support. While global data are not available, a study of 42,000 women undertaken across 28 member States of the European Union found that only one third of victims of partner violence and one quarter of victims of non-partner violence contacted either the police or support services following the most serious incident of violence. Victims reported the most serious incident of partner violence to the police in only 14 per cent of cases.¹²
117. A major obstacle for ending violence against women is the persistence of discriminatory attitudes and social norms that normalize and permit violence. Victim-blaming attitudes are widespread across all countries. Data from 37 developing countries show that 21 per cent of women believe that a husband is justified in beating his wife if she argues with him.¹³ Similarly, 27 per cent of women believe that a husband is justified in beating his wife if she neglects the children.¹⁴ While those surveys collected data from women about their attitudes, surveys of men also reveal high levels of acceptance of violence against women. A 2010 survey conducted in 15 out of 27 States members of the European Union asked whether women's behaviour was a cause of domestic violence against women. The proportion of individuals who agreed with this statement averaged 52 per cent and ranged from 33 per cent to 86 per cent across countries.¹⁵
118. The most recent Global Report on Trafficking in Persons provides an overview of patterns and flows of trafficking in persons at the global, regional and national levels and is based on trafficking cases detected mainly between 2007 and 2010. Women account for between 55 per cent and 60 per cent of all trafficking victims detected globally, and women and girls together account for some 75 per cent. Moreover, the trafficking of children remains a serious problem, as 27 per

⁸ See, for example, A/HRC/14/22, A/HRC/17/26, A/HRC/20/16 and A/HRC/23/49.

⁹ World Health Organization, London School of Hygiene and Tropical Medicine and South African Medical Research Council, *Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence* (Geneva, World Health Organization, 2013).

¹⁰ Ibid. The regional classifications are taken from the study in question, which covers only 81 countries in total, i.e., 23 high-income countries and 58 low- and middle-income countries. The data are for 2010.

¹¹ Global Study on Homicide 2013: Trends, Contexts, Data (United Nations publication, Sales No. E.14.IV.1).

¹² European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (Luxembourg, Publications Office of the European Union, 2014).

¹³ UN-Women analysis of demographic and health surveys. Data from most recent survey, between 2009 and 2014.

¹⁴ UN-Women analysis of demographic and health surveys. Data from most recent survey, between 2009 and 2014.

¹⁵ Enrique Gracia, "Intimate partner violence against women and victim-blaming attitudes among Europeans", *Bulletin of the World Health Organization*, vol. 92, No. 5 (2014).



cent of all victims are children and, of every three child victims, two are girls and one is a boy.¹⁶

119. There is limited availability of global trend data on other forms of violence experienced by women. A study of 42,000 women in the European Union found that 55 per cent of women have experienced sexual harassment at least once since the age of 15, and one in five women (21 per cent) had experienced such harassment in the 12 months prior to the survey.¹⁷ The United Nations Children's Fund (UNICEF) estimated in 2013 that more than 125 million girls and women had undergone some form of female genital mutilation/cutting in 29 countries across Africa and the Middle East. Another 30 million girls were estimated to be at risk of being cut in the next decade.¹⁸ Trend data show that the practice is becoming less common in a little over half of the 29 countries studied.¹⁹ However, owing to population growth, the number of women affected by female genital mutilation/cutting is actually increasing. With respect to child, early and forced marriage (see sect.V.L), UNICEF estimates that more than 700 million women alive in 2014 were married before their eighteenth birthday.²⁰ The harmful practice is declining, but still persists at unacceptably high levels in countries in sub-Saharan Africa and South Asia.

2. OVERVIEW OF ACTIONS TAKEN BY GOVERNMENTS TO IMPLEMENT THE PLATFORM FOR ACTION

120. Eliminating all forms of violence against women and girls requires a comprehensive and coordinated set of actions to prevent and respond to such violence and to tackle the underlying causes of violence against women and girls. It is vital to integrate actions to eliminate violence against women within comprehensive strategies for addressing gender inequality more broadly, particularly for addressing the structural and systemic inequalities that are a cause and consequence of such violence.

121. Member States have taken a range of actions to address this critical area of concern. Four major trends have emerged (a) strengthening legal and policy frameworks to address all forms of violence against women; (b) accelerating efforts to prevent violence against women; (c) increasing the provision and integration of multi-sectoral support services; and (d) improving data and evidence on violence against women.

STRENGTHENING LEGAL AND POLICY FRAMEWORKS TO ADDRESS ALL FORMS OF VIOLENCE AGAINST WOMEN

122. A strong legal framework is vital for the elimination of violence against women. It is also important to review and reform other relevant legislation and policies, including family law and access to land and resources, as well as immigration, so as to ensure that they support women subject to violence in leaving abusive relationships, prevent further violence and address the consequences of such violence. While the majority of States continue to address violence through existing criminal laws or laws on specific forms of violence, several States, particularly in Latin America and the Caribbean, as well as a growing number in other regions, have adopted comprehensive laws to guarantee women a life free from violence that include measures to criminalize and prevent violence, protect women against violence and punish perpetrators. States have also incorporated specific provisions in their national constitutions to prevent violence and protect women in that regard.

123. States across all regions have also continued to strengthen legislative frameworks on violence against women by amending laws to criminalize additional forms of violence against women, such as trafficking, sexual harassment and domestic violence or harmful practices such as female genital mutilation; expand definitions of domestic violence and rape; define violence against women as a human rights violation; increase penalties; increase protection for victims; increase efforts to prevent violence; and

¹⁶ Global Report on Trafficking in Persons 2012 (United Nations publication, Sales No. E.13.IV.1).

¹⁷ European Union Agency for Fundamental Rights, Violence against Women: An EU-Wide Survey (Luxembourg, Publications Office of the European Union, 2014).

¹⁸ United Nations Children's Fund, Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change (New York, 2013).

¹⁹ United Nations Children's Fund, Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change (New York, 2013).

²⁰ United Nations Children's Fund, "Ending child marriage: progress and prospects" (New York, 2014).



provide funding for the enforcement of laws. Civil protection orders have been increasingly introduced to either restrict the behaviour of perpetrators or remove them from a joint place of residence. Most civil protection orders apply to situations of domestic violence, but there has been a growing effort to extend protection against other forms of violence, such as forced marriage and stalking.

124. States have identified barriers to the implementation and enforcement of laws on violence against women, such as the lack of political will, backlash from conservative forces, a lack of knowledge about laws, poor provision of and access to legal services, the lack of capacity of courts, delays in hearing cases and the absence of qualified staff and personnel. In response, States have introduced specific actions, including awareness-raising programmes to increase knowledge of laws among the general public, particularly women, and among enforcement agencies; issuance of specific guidelines for justice agencies to improve their responsiveness to women who have experienced violence; electronic monitoring systems for cases; and training for judges and law enforcement officials. States have also continued to introduce measures to improve women's access to justice, including by providing access to free legal services, appointed specialized personnel and units within justice agencies and established specific helplines and information websites.
125. Since 2010, countries across all regions have increasingly adopted or are in the process of developing national action plans and strategies to address violence against women, although they vary greatly in their scope and coverage. Some States have introduced comprehensive national action plans that cover multiple forms of violence against women and include measures covering prevention, access to justice, support services, data and research. Several States are now implementing their second or third national action plans, indicating that they are an integral part of a long-term strategy to address violence against women. The more comprehensive national action plans have specific elements on monitoring progress and evaluating the impact the actions plans, with specific timelines and benchmarks. They also provide for the establishment of implementation mechanisms that enable a coordinated response from key government agencies. In some cases there is engagement at the ministerial level in the implementation of national action plans, with a committee of ministers involved in the review of progress and the allocation of resources. Other national action plans outline the engagement of, and coordination and dialogue with, women's civil society organizations. Women's civil society organizations play a key role in shaping and monitoring national action plans and advising governments on laws and policies to prevent and end violence against women.
126. A number of action plans respond to specific forms of violence, such as domestic violence, sexual violence, trafficking, femicide, sorcery-related violence and violence against older women, as well as harmful practices, including female genital mutilation. Recognizing the need to complement national action plans with strategies adapted to the needs of specific subnational regions and territories, an important development in recent years has been the introduction of policy frameworks at the provincial, regional or local levels. In some cases, States have linked their national action plans or strategies to eliminate violence against women with national development plans. In conflict-affected contexts, States have included specific components on ending impunity and security sector reform in their national action plans. States are also taking action to respond to the specific forms of violence experienced by women with disabilities, immigrant and migrant women, indigenous women and lesbian, gay, bisexual and transgender people.
127. A major challenge for the effective implementation of laws, policies and frameworks to address violence against women is the lack of sufficient resources. The economic crises since 2007/2008 and subsequent austerity measures have resulted in cutbacks in social services, with potentially negative impacts on women survivors and victims of violence seeking support services. Despite the existence of national action plans or laws to address violence against women, several States reported having allocated inadequate resources for the implementation of those laws and policies and for the provision of quality support services for survivors.
128. In many contexts, laws remain inadequate, for example by allowing for the mitigation of sentencing in cases of rape where the perpetrator marries the victim, or by not criminalizing marital rape or domestic violence. Even where strong laws are in place, there remain challenges as regards enforcement and implementation. While an increasing number of countries have introduced national action plans, many of these are limited and respond only to a few forms of violence, such as domestic violence or



trafficking, and do not include actions on coordination, monitoring and evaluation. Very few States provided information on resources dedicated to the implementation of national action plans; however one country has undertaken a costing study to identify the minimum resources required to address violence and advance gender equality.

ACCELERATING EFFORTS TO PREVENT VIOLENCE AGAINST WOMEN

129. It is increasingly recognized that preventing violence before it occurs or re-occurs can have a significant positive impact on the health and on the social and economic well-being of individuals, families, communities and societies. Preventing violence requires tackling the underlying causes — the unequal power relations between women and men and the persistence of attitudes, norms and gender stereotypes that perpetuate discrimination against women and girls. Since 2010, there has been an increasing emphasis on preventing violence against women and girls.

130. Awareness-raising regarding the causes and consequences of violence against women should be a component of a comprehensive strategy to prevent such violence. States across all regions have increasingly implemented a wide range of public awareness campaigns to address violence against women. The campaigns employ different strategies, such as promoting a zero tolerance approach to violence against women, targeting different parts of the population, involving men in efforts to end violence against women or increasing awareness among youth of stereotypes and inequalities that perpetuate violence. Campaigns have aimed to prevent specific forms of violence, such as domestic violence, rape, workplace harassment or female genital mutilation. A number of States have started to use social media as part of awareness-raising campaigns.

131. Another important area of intervention lies within the education system, which can contribute towards changing attitudes and norms that condone violence against women, which are often formed at an early age. States have reported on actions in the school environment to challenge norms and attitudes that condone violence against women and build positive norms of respect, equality and healthy relationships. Comprehensive sexuality education, school-based programmes on healthy/unhealthy and equal/unequal relationships and the training of teachers are increasingly being used to help prevent violence against women.

132. Community mobilization can also play a role in challenging norms that perpetuate violence against women and in creating positive norms and attitudes based on gender equality and respect for women. There are increasing efforts across all regions to mobilize communities in combating violence against women, through strategies such as developing sensitization activities in communities and schools, establishing local committees against harmful practices and conducting national and local consultations on combating discriminatory social norms and stereotypes. The engagement of traditional and cultural leaders in dialogues on ending violence against women and harmful practices has been implemented as a strategy to change attitudes and norms in some States. There are growing efforts to engage men and boys in preventing violence against women through community mobilization programmes, training and capacity-building activities. These initiatives create spaces for men to talk about violence against women and masculinity and they contribute to making violence against women an acceptable topic for public discourse and media.²¹

133. Although States are increasingly recognizing the importance of prevention, very few have introduced long-term, coordinated and cross-cutting prevention strategies, with the vast majority reporting on short-term piecemeal activities. There is very little information provided about the impact or effectiveness of interventions, indicating the need for greater focus on monitoring, knowledge management and evaluation.

INCREASING THE PROVISION AND INTEGRATION OF MULTISECTORAL SUPPORT SERVICES

134. Victims and survivors of violence require timely access to quality, integrated and coordinated services that respond to injuries and other health and sexual and reproductive health concerns, protect them from further violence, provide them with support, including legal advice, counselling and access to safe accommodation, and address long-term needs, such as finding accommodation and accessing social

²¹ UN-Women, “Thematic evaluation: the contribution of UN-Women to prevent violence against women and expand access to services” (New York, 2013).



protection and decent work. States' responses confirm consistent attention to the provision of support services for survivors of violence against women, although there is significant variation in the type, quality and coverage of services. The most common type of services include helplines, health-care services, police, shelters and safe accommodation, psychological support, free legal services, justice services and childcare support services. Women's civil society organizations play a critical role in providing services and setting standards for the quality of services for women who experience violence.

135. An important development in recent years, across all regions, is the establishment of coordinated and integrated services to support women who experience violence. This includes integrating referral mechanisms by creating networks of existing services and bringing together relevant sectors to respond to violence against women. Typically, integrated services include health care, legal aid, police, shelters and psychological support, however some States have also integrated social protection, education and employment services. Integrated services are often provided as a one-stop centre, or through comprehensive services, or in some cases, through the provision of mobile clinics in the community. Specialized courts and police services for dealing with violence against women have also emerged in a number of countries. Specialized police services are a growing trend in Latin America in particular. Some States have appointed focal points in such key services as the police and courts. Services for addressing violence against women are also increasingly integrated within sexual and reproductive health-care services, which can include HIV services.

136. There is a growing focus on training to increase the capacity of professionals to respond effectively to violence against women and increase the quality of services. States reported on implementing training for teachers and the police, as well as justice system and health-care service professionals. In some cases, training is delivered in collaboration with non-government organizations with specialist knowledge of violence against women, but there is very little information overall on the sustainability, quality or impact of training. Some States have also introduced standard operating procedures, quality standards and issued guidance and regulations to improve the quality of services.

137. While many countries noted the limited availability of services, particularly in rural and remote areas, as a key challenge, only a few countries have taken specific steps to increase access to services in rural areas. Little attention has been focused on targeted services for marginalized groups of women, including women with disabilities, indigenous women and migrant women. Very few countries reported on the participation of survivors in shaping the quality or delivery of services, although some States have introduced specific programmes to strengthen State accountability in ending violence against women, with a focus on the accountability of service providers.

IMPROVING DATA AND EVIDENCE ON VIOLENCE AGAINST WOMEN

138. Internationally agreed measurements about the scope and prevalence of violence against women are essential, as they allow for global comparability and the monitoring of trends over time. There has been important progress in improving data on violence against women in recent years. As of 2014, around 100 countries had nationally representative data on the prevalence of violence against women, although there is great variation in how the data are collected. Many States have collected data through dedicated surveys on violence against women or through crime surveys. Surveys and research on violence against women have addressed the causes of violence against women, prevalence, attitudes and consequences. Some countries have undertaken qualitative studies to understand violence against specific groups of women, such as indigenous women. Several countries also reported on efforts to collect administrative data on violence against women, including registers of reported cases and access to services.

139. Despite progress, knowledge and evidence gaps remain a significant challenge, both in terms of data on the nature and extent of different forms of violence in private and public spaces, but also in terms of effective policies and programmes for eliminating violence against women. Knowledge must be strengthened to better understand what works, and why, as well as how multifaceted efforts sustained over time can address the complex sets of factors underpinning gender inequality and the acceptance of violence against women. Much greater efforts and long-term investments are needed to enhance monitoring, knowledge management and the evaluation of the impact of measures taken and results achieved.

3. MOVING FORWARD: PRIORITIES FOR FUTURE ACTION AND ACCELERATED IMPLEMENTATION

140. Violence against women and girls remains at unacceptably high levels for several reasons. First, the implementation of national legal and policy frameworks has been slow and uneven and there are many inadequacies, with insufficient enforcement of legislation, poor implementation and the lack of adequate resources. Second, despite increasing efforts, insufficient attention has been focused on preventing the occurrence of violence against women and girls. Finally, persistent discrimination, gender inequality, discriminatory social norms and gender stereotypes remain major obstacles to eliminating violence against women.
141. Ensuring the implementation of strong and comprehensive legal and policy frameworks, which address all forms of violence against women in all countries, remains an urgent priority, along with adequate resourcing for implementation. There is a need to strengthen responses by integrating the prevention and response to such violence within broader policy frameworks, such as national development plans, as well as health, education, security and justice policies.
142. In their responses to violence against women, governments have focused mainly on the provision of such immediate services as shelters and helplines, with limited focus on long-term support for enabling women to exercise agency and escape violence, particularly around income generation, education and training. Most services still remain insufficient to meet the demand and there is a need for much greater attention to the accessibility and the quality of services, including through the training of providers and better integration and coordination. States have recognized the underlying causes of violence against women. Accelerating implementation will require comprehensive and long-term strategies for preventing violence against women that address unequal power relations, change attitudes and realize women's human rights in all areas.
143. The lack of attention to multiple and intersecting forms of discrimination often means that policies and programmes for combating violence against women are not responsive to the needs and experiences of women. Laws, policies and programmes to address violence against women should specifically address the factors that place marginalized women and girls at particular risk of violence and should create an enabling environment for those groups of women to find support in addressing violence.
144. In recent years there has been increasing attention to such newly emerging forms of violence as cyberbullying and sexual harassment and violence perpetrated by means of information and communications technologies. Other forms of violence are increasingly attracting the attention of governments. These include dating violence, violence against older women, in the workplace, against women in politics, against women in public spaces, against women human rights defenders and against women in the armed forces. The multiple and growing forms of violence against women and the various contexts in which violence occurs underscores the need for comprehensive strategies.
145. The collection and use of data on violence against women is another area requiring urgent attention and States should increase their efforts to collect and report data in accordance with the nine violence against women indicators endorsed by the Statistical Commission. Research on different forms of violence, or on violence experienced by marginalized groups of women, who are difficult to reach with national surveys, is also needed in order to increase the understanding of their experiences and of the effects of violence, as well as to improve policy responses.



1.7. INTERNATIONAL PROTOCOL ON THE DOCUMENTATION AND INVESTIGATION OF SEXUAL VIOLENCE IN CONFLICT

Basic Standards of Best Practice on the Documentation of Sexual Violence as a Crime under International Law

Foreign and Commonwealth Office of the United Kingdom, as part of the Global Summit to End Sexual
Violence : June 2014

Summary

1. INTRODUCTION

Sexual violence, whether committed as a war crime, crime against humanity and/or as an act of genocide, is often part of the tragic and brutal pattern of criminal acts committed during armed conflict and in the context of mass atrocities. Sexual violence not only affects hundreds of thousands of women and girls, but also affects and victimises men and boys. In addition to the extreme physical and psychological trauma suffered by survivors/witnesses, sexual violence may engender and aggravate ethnic, sectarian and other divisions in communities. Yet the overwhelming majority of survivors never receive justice and face considerable challenges in accessing the medical, psychosocial and economic support that is necessary to help them rebuild their lives. The lack of accountability of those who commit crimes of sexual violence in conflict exacerbates impunity.

This Protocol does not aim to tackle the entire sphere of crimes of sexual violence; its aim is focused on the specific subject matter of documentation and investigation of crimes of sexual violence under international criminal law. It should be clear, however, that the survivors of crimes of sexual violence outside this context are also in dire need of justice, support and remedies; it is hoped that this Protocol will be the catalyst for increased action on both prevention and accountability for all forms of sexual violence in conflict.

a) Purpose

The main purpose of the Protocol is to promote accountability for crimes of sexual violence under international law. It does this by setting out the basic principles of documenting sexual violence as a crime under international law, gleaned from best practice in the field. The Protocol is not binding on states. Rather, it can serve as a tool to support efforts by national and international justice and human rights practitioners to effectively and protectively document sexual violence as a crime under international law – as a war crime, crime against humanity or act of genocide.

b) Audience

These guidelines are designed for use primarily by human rights and justice actors, at national and international levels, and any other individual or organisation faced with the challenge of documenting sexual violence as a crime under international law.

c) What is the Protocol

Part 1 of the Protocol provides a definition of sexual violence as an international crime: what it is, acts that constitute sexual violence crimes, and what the requirements are to prosecute sexual violence as a crime under international law. It also describes the grave consequences associated with sexual violence, the obstacles faced by survivors and witnesses when accessing justice, and some myths and misconceptions about sexual violence that can hinder efforts to effectively investigate and document crimes and support survivors/witnesses.

Part 2 outlines what documentation looks like in practice: what to do to research, prepare and set up an investigation and documentation process, how to conduct safe and effective interviews, and the minimum requirements when dealing with audiovisual, physical and documentary evidence of sexual violence. The key principle of “do no harm” is engrained in this section, and it suggests practical strategies that practitioners may employ in order to mitigate and address the possible risks associated with documenting and investigating sexual violence in conflict, and to overcome some of the obstacles that can interfere with accountability efforts.

The annexes contain some tools and further information, which it is hoped will prove directly useful to



documenters as they carry out their investigations.

1.1 Contextualising sexual violence

Sexual violence is a particularly heinous form of violence, and includes rape and any other attack of a sexual nature perpetrated against women and girls, men and boys. Its consequences can be brutal, may include acute physical and psychological repercussions for survivors and witnesses, and have a deep destabilizing effect on communities and populations as a whole.

It is important to recognize that women, men, girls and boys can all be victims of sexual violence. Nevertheless, the historical and structural inequalities that exist between men and women, and the different forms of gender-based discrimination that women are subjected to all over the world, contribute to women and girls being disproportionately affected by sexual violence in conflict settings. Additionally, the prevalence of sexual violence against children in particular is extremely high, and can have a devastating impact.

1.2 Responding to sexual violence

Responding to sexual violence requires a strong multi-sectoral approach involving the coordinated provision of health services, protection, psychosocial support, and access to justice for survivors (**see Annex 2, “Basic Elements of Multi-Sectoral Response to Sexual Violence”**). Putting these support services in place is key to increasing the likelihood that survivors report crimes of sexual violence.

However, survivors of sexual violence face significant barriers to accessing services, justice mechanisms and other post-conflict remedies. Some survivors do not access justice because of the stigma, shame, humiliation and trauma experienced by survivors and their families. Others fear ostracisation from spouses, other family members and their community, are afraid of further violence, and have a lack of trust in national police.

It must be noted that the primary responsibility to investigate and document sexual violence lies with States. National security and justice institutions should be appropriately trained and equipped to respond effectively and justly to survivors of sexual violence, investigate crimes, and protect survivors and witnesses. However, where national institutions are unable, or unwilling, to investigate and document crimes of sexual violence, when national definitions of sexual violence are restrictive, or domestic remedies are exhausted, practitioners with the appropriate training, tools and mandate are in a position to effectively, and protectively, document sexual violence as an international crime.

2. SEXUAL VIOLENCE AS A CRIME UNDER INTERNATIONAL LAW

2.1 Background

Over the past 20 years, international law has developed in the direction of seeking greater accountability for the most egregious crimes, including crimes of sexual violence when committed as war crimes, crimes against humanity or acts of genocide.

The starting point for discussion of international crimes applicable to acts of sexual violence in the context of this Protocol is the Rome Statute of the ICC (the Rome Statute). The provisions codified in the Rome Statute are likely to be reflected in many national systems as states ratify the Rome Statute and incorporate these international provisions into their domestic legislation. The Rome Statute is not, however, the most comprehensive elaboration of applicable international criminal law; customary international law is in many ways far broader.

While this Protocol has a focus on the provisions as set out in the Rome Statute, practitioners should bear in mind the importance of the jurisprudence of the ad hoc and hybrid tribunals as a source of applicable principles, in particular because many provisions of the Rome Statute have not yet been litigated or resolved. In this case, the jurisprudence of the ad hoc and hybrid tribunals may provide the only available guidance.

The definitions of the criminal acts, and the elements that comprise them, may vary somewhat according to the jurisdictions in which the crime(s) are being investigated and prosecuted. Although many States party to the Rome Statute have incorporated the Statute's definitions of sexual violence into national law, many others have not. Practitioners documenting crimes of sexual violence should be familiar with both the elements of crimes as defined by the Rome Statute and those of the legal framework in which they are operating.

3. PRELIMINARY CONSIDERATIONS

3.1 “Do No Harm”

Engaging individuals, their families and communities in order to investigate and document information of sexual violence must be done in a way that maximises the access to justice for survivors, and minimises as much as possible any negative impact the documentation process may have upon them.



When documenting information about sexual violence, practitioners must strive to “do no harm” or to minimise the harm they may be inadvertently causing through their presence or mandate.

To this end, practitioners should at a minimum:

- 1. Understand the risks involved in documenting sexual violence.**
- 2. Ensure team members documenting sexual violence are appropriately trained.**
- 3. Ensure survivors and witnesses give their informed consent to participate in enquiries.**
- 4. Protect the information documented.**
- 5. Take special precautions when working with child survivors and witnesses.**

4. KEY PLANNING TOPICS

4.1 Coordination

At any given time, there may be multiple efforts under way to collect, record and analyse information on sexual violence in conflict-affected areas. This is especially true in areas where sexual violence is believed to be highly prevalent, where humanitarian responses have been established, or where official international or national investigations have been launched. The existence of multiple forms and lines of inquiry can be harmful to individuals and communities, impact the quality of information collected and its ability to be used in a criminal trial, and affect the work of organisations operating in the area. Some of the consequences of multiple inquiries include the following:

- Survivors/witnesses may have to repeatedly tell their story on numerous occasions, for different purposes, to different people. In some cases this might lead to re-traumatisation. Being asked questions, however sensitively, can be experienced by the survivor/witness like an interrogation.
- Assessment fatigue – communities become saturated from multiple inquiries, intrusions and promises with no delivery of assistance.
- Individuals and communities are placed at risk from the increased attention and perception they are betraying members of their own community or accusing others.
- **In order to respect survivors/witnesses and ensure the best information is collected, these processes should be coordinated where possible. To this end, practitioners should:**
- Develop relationships with other organisations prior to travelling to the area, and where possible assess the type, quality, frequency and purpose of the information they may or may not have collected.
- Find out about the existing gender-based violence coordination mechanisms at national, regional and local levels. Being aware of existing systems may facilitate information-sharing and access to data, as well as securing protection solutions for survivors/ witnesses.
- Be aware of security and additional concerns of other organisations collecting information. Certain organisations may be collecting information discreetly and should not be approached publicly with requests for information.
- Be aware of organisations and individuals who have been mistreating the affected community by manipulating information, threatening them with consequences should they come forward, and putting out false information with the aim of undermining documentation efforts.
- Be familiar themselves with existing systems collecting data on sexual violence: their purpose, how they are implemented, and what the limitations are on sharing information collected by them. This includes the Gender-Based Violence Information System (GBVIMS) and the Monitoring, Analysis and Reporting Arrangements (MARA) introduced by UN Security Council Resolution 1960
- Respect the mandate of other organisations working according to different agendas with communities. Often service providers are working to offer impartial assistance to all, and mediating conflict, remaining independent of prosecution efforts, and integrating with the whole community is key to that role. Practitioners should take extra precautions when visiting organisations and communities in refugee and displacement camps and sites, offices of aid workers, clinics and community safe spaces. Where appropriate, they should plan those visits beforehand and not show up unannounced requesting information.
- Be aware that often service provision to survivors/witnesses is based on expectations of confidentiality that should not be breached, including through sharing of anonymous data that may be useful to establish patterns, location, responses and types of sexual violence that occurred.
- Keep in mind UN Security Council Resolution 1888, in which UN and government agencies and NGOs, at both the national and international level, are called on to support improved monitoring, documentation and reporting of crimes of sexual violence. Service providers and other institutions supporting survivors may choose to respond to this call by sharing information on survivors according to best ethical practices and the informed consent of survivors.

5. Identifying survivors and other witnesses



Identifying survivors and other witnesses of sexual violence can at times be more challenging than identifying survivors and other witnesses of other crimes under international law. Even in areas where multiple anecdotal reports of sexual violence have been made, survivors and other witnesses may be unwilling to come forward formally for many different reasons. Survivors may be unwilling to risk experiencing traumatic memories of the sexual violence, think the sexual violence was their fault, or think no one will believe them if they do not have proof. Depending on the communal and traditional or cultural context, survivors of sexual violence crimes might be at risk, or be manipulated, within their communities.

It is important to create a supportive and safe environment in which survivors and witnesses feel secure to come forward and report crimes. If outreach is advisable, determine the level of outreach that is necessary to undertake prior to receiving information about cases of sexual violence in any given community. Additionally, practitioners should keep in mind that useful information about sexual violence can be collected from many sources, not just from survivors/witnesses.

Great care must be taken in approaching child survivors and witnesses – if practitioners are not certain that they can approach children appropriately, cannot guarantee children are appropriately referred, or do not know how to access resources to support children in case of a crisis, they should not attempt to approach them. Practitioners should also note that if they come into contact with children they believe have been harmed they are required to communicate this to the appropriate authorities.

6. TESTIMONY

Testimony from survivors/witnesses is often the type of information most readily available to practitioners, but it is also the type that must be treated with the most care. Survivors/ witnesses can provide practitioners with critical information on the attack itself – either having experienced it, or through having observed it – but can also provide information on the contextual elements surrounding the attack and the perpetrators and their method of participation in the criminal acts witnessed. “Overview” witnesses such as doctors, nurses, counsellors and local leaders who may have information on the existence of many survivors/ witnesses, timing and location of the acts are of particular importance in establishing the contextual elements of potential crimes.

6.1 Informed consent

Observing the principle of ‘informed consent’ is critical when gathering information about sexual violence, irrespective of the nature of the information obtained. All survivors and witnesses must give their informed consent to be interviewed and examined, to be photographed, to have their information recorded, to be referred to any support services, and to have their information and contact details shared with third parties.

7. INTERVIEWING

Once survivors and other witnesses are identified, interviewing them is the most common and often most useful method of gathering information, but it is also the most likely to negatively impact their well-being, place them at additional risk, and, if not carried out properly, affect the quality and reliability of information provided.

Sometimes, interviewing survivors/witnesses is not necessary nor is it recommended, and practitioners must be able to clearly justify the need to do so.

8. ADDITIONAL SOURCES OF INFORMATION

8.1 Physical evidence

Physical evidence refers to any physical object or matter that can provide information and help to establish that a crime took place, or provide a link between a crime and its victim or between a crime and its perpetrator.

As a general rule, practitioners should not collect any item of physical evidence unless they have been trained as an investigator or as a health practitioner in the proper collection of forensic evidence. If practitioners choose to collect physical evidence without having undertaken the proper training, they can severely harm a survivor, and may contaminate evidence, making it unusable.

Depending on the time frame involved and the nature of the injuries, survivors of sexual violence may have physical signs on their bodies in the form of marks or injuries that corroborate their accounts of the attack.



They may also have medical consequences of the assault, including internal physical injuries, pregnancy, sexually transmitted diseases and mental trauma. Ideally, a victim should be able to access immediate medical assistance following a sexual assault and a trained clinician should record any injuries and the other health impacts in a confidential medical record which a survivor can access at any time.

Practitioners may also have access to, or locate, the sites where crimes of sexual violence took place. Not only is the site of an attack useful as a potential source of valuable physical evidence, but the location and existence of the site in itself can help to establish the presence of alleged perpetrators in the area, and be analysed as part of the pattern of movement of the alleged perpetrators, and other contextual elements or elements of modes of liability.

Any sharing of records, reports, studies and statistics of cases of sexual violence should be done safely and ethically and with respect for applicable survivor/witness confidentiality.

9.1 Storing Information

If practitioners collect information on sexual violence (e.g. photographs of a crime scene or a document recording their interview with a survivor/witness) it is vital that they store and maintain this information in a manner that does not compromise its integrity or put survivors and witnesses at risk of further harm. The sensitive nature of sexual violence information and the potential harm that could occur if the information is misused makes it extremely important for anyone collecting this information to store it in a manner that ensures the safety of the survivor/witness, the community and those collecting the information.

9.2 Storing digital information

The advantages of using a digital storage system (where this is available) rather than a manual storage system are that a digital system does not use as much physical space, usually facilitates easy searching and analysis, is usually easier to update and generate reports from and can be protected to some extent. However, the disadvantages of a digital storage system are that it can be more time-consuming to input data, access is dependent upon an electricity supply and sometimes web access, and the system is susceptible to hacking and viruses. Additionally, if information is transmitted via mobile phones or via the internet, there is a risk of authorities compelling mobile or internet service providers to hand over sensitive information.



PART II: 24th SESSION COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE

2.1. RESOLUTION: TAKING ACTION AGAINST GENDER-RELATED KILLING OF WOMEN AND GIRLS

"Violence against women and girls, in all its many forms, shames us all. To end this serious crime, we must all work in a spirit of partnership and cooperation to change laws, change perceptions and change behaviours. If not, we will continue to see this violent crime undermine our efforts to build better, more inclusive societies."

—Yury Fedotov, UNODC Executive Director



2.1.1. DRAFT RESOLUTION FOR ADOPTION BY THE GENERAL ASSEMBLY: TAKING ACTION AGAINST GENDER-RELATED KILLING OF WOMEN AND GIRLS

United Nations	S/2015/203
 Economic and Social Council	Distr.: Limited 21 May 2015
	Original: English

Commission on Crime Prevention and Criminal Justice

Twenty-fourth session Vienna, 18-22 May 2015

Agenda item 6

Use and application of United Nations standards and norms in crime prevention and criminal justice

Andorra, Argentina, Austria, Chile, Costa Rica, Croatia, El Salvador, Mexico, Panama, Philippines and Thailand: revised draft resolution

The Commission on Crime Prevention and Criminal Justice recommends to the Economic and Social Council the approval of the following draft resolution for adoption by the General Assembly:

TAKING ACTION AGAINST GENDER-RELATED KILLING OF WOMEN AND GIRLS

The General Assembly,

Recalling its resolution 68/191 of 18 December 2013 on taking action against gender-related killing of women and girls, in particular the obligation to promote and protect all human rights and fundamental freedoms for all, including women and girls,

Deeply concerned that the global prevalence of different manifestations of the gender-related killing of women and girls is reaching alarming proportions, noting especially that one of every two women victims of homicide is killed by her intimate partner or a family member,²²

Deeply concerned also at the scourge of sexual violence in all situations, including those of conflict, and targeted mass kidnapping, rape and killing of women and girls,

Taking note of the report of the Special Rapporteur on violence against women, its causes and consequences²³ and Human Rights Council resolution 20/12 of 5 July 2012 on accelerating efforts to eliminate all forms of violence against women: remedies for women who have been subjected to violence,

Recalling the report of the Office of the United Nations High Commissioner for Human Rights on creating and/or strengthening synergies and linkages on violence against women and girls²⁴ and Human Rights Council resolution 23/25 of 14 June 2013 on accelerating efforts to eliminate all forms of violence against women: preventing and responding to rape and other forms of sexual violence.

²² United Nations Office on Drugs and Crime, Global Study on Homicide 2013.

²³ A/HRC/20/16.

²⁴ A/HRC/23/25.

Recalling also its resolution 69/147 of 18 December 2014 on the intensification of efforts to eliminate all forms of violence against women and girls,

Taking note with appreciation of the political declaration on the occasion of the twentieth anniversary of the Fourth World Conference on Women adopted by the Commission on the Status of Women at its fifty-ninth session,²⁵ which focused on the 20-year review of the Beijing Platform for Action,²⁶

Expressing its gratitude to the Government of Thailand for hosting and chairing the open-ended intergovernmental expert group meeting on gender-related killing of women and girls, held in Bangkok from 11 to 13 November 2014, as mandated by its resolution 68/191 of 18 December 2013,

Taking note with appreciation of the recommendations of the above-mentioned open-ended intergovernmental expert group meeting,²⁷

Welcoming the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation,²⁸ in particular the endeavour of Member States to mainstream a gender perspective into criminal justice systems by developing and implementing national strategies and plans, in order to promote the full protection of women and girls from all acts of violence, including gender-related killing of women and girls,

Stressing the importance of eliminating all forms of violence against all women and girls in the public and private spheres and significantly reducing all forms of violence and related death rates everywhere, in the context of the post-2015 development agenda,²⁹

Stressing also that States have the obligation to promote and protect all human rights and fundamental freedoms for all, including women and girls, to take measures to prevent and investigate acts of violence against women and girls and to prosecute and punish those responsible, no matter who the perpetrators of such crimes are, and to eliminate impunity,

Expressing appreciation for the work undertaken by the United Nations system in preventing and responding to all forms of violence against women and girls,

Viewing with appreciation the considerable input of many civil society organizations, as well as academia, in addressing the different forms of violence against women and girls, through research and direct action in their respective communities,

Taking note of national and international judicial decisions that condemn mass killing of women and girls,

Remaining alarmed by the high level of impunity with regard to gender-related killing of women and girls and the fact that violence against women and girls is among the least prosecuted and punished crimes in the world,

1. *Urges* Member States to take measures to prevent, investigate, prosecute and punish acts of violence against women and girls, in particular gender-related killing, in accordance with national laws, and to act at all levels to end impunity for those responsible for committing these heinous crimes against women and girls;
2. *Also urges* Member States to strengthen their criminal justice response to gender-related killing of women and girls, in particular by taking measures to support their capacity to investigate, prosecute and punish all forms of such crime and to consider measures in their capacities to provide, as appropriate,

²⁵ See Official Records of the Economic and Social Council, 2015, Supplement No. 7 (E/2015/27), chap. I, sect. C.

²⁶ Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995 (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annex II.

²⁷ E/CN.15/2015/16.

²⁸ A/CONF.222/17, chap. I, resolution 1.

²⁹ A/68/970.



reparation, compensation and/or necessary legal, medical, psychological and social support to victims and their families or dependents;

3. *Encourages* Member States to consider ways to enhance international cooperation and the exchange of good practices in criminal matters related to gender-based violence, including by, as appropriate, ratifying or acceding to and implementing the United Nations Convention against Transnational Organized Crime and the Protocols thereto³⁰ and other relevant international legal instruments;
4. *Encourages* States parties to the Convention on the Elimination of All Forms of Discrimination against Women³¹ and its Optional Protocol,³² the Convention on the Rights of the Child and the Optional Protocols thereto³³ and the Rome Statute of the International Criminal Court³⁴ to effectively implement those instruments;
5. *Invites* Member States to take into consideration the existing practical tools, as recommended by the open-ended intergovernmental expert group meeting on gender-related killing of women and girls, held in Bangkok from 11 to 13 November 2014, namely the model Latin American protocol for the investigation of femicide and the “Recommendations for the effective investigation of the crime of femicide”,³⁵
6. *Encourages* Member States to promote integrated and comprehensive strategies to prevent all forms of violence against women and girls, including gender-related killing of women and girls, that include early and continuous educational programmes, community mobilization and awareness-raising, in order to counter attitudes and social factors that foster, justify or tolerate any violence against women and girls;
7. *Urges* Member States to adopt integrated and comprehensive responses to violence against women in order to reduce risks of gender-related killing through early intervention and risk assessment, exercise due diligence to prevent, investigate, prosecute and punish gender-related killing of women and girls, ensure equal protection of women under the law and equal access to justice, consider adopting an integrated, multidisciplinary and gender-sensitive approach to the prevention, investigation, prosecution and punishment of gender-related killing of women and girls to minimize the risk of secondary victimization in the criminal justice system and develop appropriate mechanisms and enhance capacities for forensic investigations to identify human remains and missing persons;
8. *Encourages* Member States to criminalize, prosecute and punish rape and other forms of sexual and gender-related violence against women and girls committed in all situations, including situations of conflict, taking into account international standards, and urges, where appropriate, relevant stakeholders to support the development and strengthening of the capacities of national institutions, in particular law enforcement, judicial and health systems, and of local civil society networks to provide sustainable assistance and access to justice to women and girls affected by gender-related violence;
9. *Also encourages* Member States to ensure that appropriate punishment for perpetrators of gender-related killing of women and girls are in place and are proportionate to the gravity of the offence;
10. *Calls* upon Member States to protect and support victims, drawing on the important role of civil society and ensuring effective cooperation between all relevant state agencies, including, where appropriate, the judiciary, prosecution services, law enforcement agencies, health and social services and local and regional authorities;
11. *Urges* Member States to ensure that victims and victims’ survivors are informed of their rights and can participate, as appropriate, in the criminal proceedings, taking into account their dignity, well-being and safety and that victims are supported through appropriate services;
12. *Encourages* relevant United Nations entities and agencies, in particular the United Nations Office on Drugs and Crime, the Office of the United Nations High Commissioner for Human Rights and the United Nations

³⁰ United Nations, Treaty Series, vols. 2225, 2237, 2241 and 2326, No. 39574.

³¹ Ibid., vol. 1249, No. 20378.

³² Ibid., vol. 2131, No. 20378.

³³ Ibid., vols. 1577, 2171 and 2173, No. 27531.

³⁴ Ibid., vol. 2187, No. 38544.

³⁵ Spain, Ministry of Foreign Affairs and Cooperation (May 2014).



Entity for Gender Equality and the Empowerment of Women (UN-Women) to continue supporting Member States in developing and implementing strategies and policies, upon request, at the national, regional and international levels to address and prevent gender-related killing of women and girls;

13. *Encourages* Member States and relevant United Nations entities and agencies, including the United Nations Office on Drugs and Crime, the Office of the High Commissioner for Human Rights, UN-Women and other specialized funds and programmes of the United Nations, to raise awareness regarding gender-related killing of women and girls;
14. *Encourages* Member States to collect, disaggregate, analyse and report data on gender-related killing of women and girls, according to the international classification of crime for statistical purposes endorsed by the Statistical Commission and, where appropriate, to the extent possible, involve civil society, academia, victims' representatives and relevant international organizations and provide appropriate training to relevant personnel on technical and ethical aspects of such data collection and analysis;
15. *Requests* the United Nations Office on Drugs and Crime and the institutes of the United Nations crime prevention and criminal justice programme network to continue conducting and coordinating relevant research on gender-related killing of women and girls, particularly in connection with the standardization of the collection, disaggregation, analysis and reporting of data;
16. *Also requests* the United Nations Office on Drugs and Crime to prepare, in collaboration with Member States, an analytical study on gender-related killing of women and girls at the global level, containing disaggregated data, including from relevant stakeholders, on this phenomenon to illustrate its different forms and patterns;
17. *Invites* the institutes of the United Nations crime prevention and criminal justice programme network to include in their work programmes the issue of gender-related killing of women and girls with a view to promoting ways and means of more effectively preventing, investigating, prosecuting and punishing such crime, and to develop appropriate training material;
18. *Invites* Member States and other donors to provide extra-budgetary contributions for the purposes described above, in accordance with the rules and procedures of the United Nations;
19. *Requests* the Secretary-General to report to the General Assembly at its seventy-second session on the implementation of the present resolution.

2.1.2. POINTERS FOR INTRODUCING DRAFT RESOLUTION: TAKING ACTION AGAINST GENDER-RELATED KILLING OF WOMEN AND GIRLS – SUBMITTED BY THAILAND AND CROATIA

Tuesday 5 May 2014, Vienna

Allow me to provide some more information about the draft resolution entitled 'Taking Action against Gender-Related Killing of Women and Girls' submitted by Thailand and Croatia.

This draft resolution aims to mainstream rights based, gender specific approach in the criminal justice system to put an end to impunity of gender-related killing of women and girls.

It is a follow-up to the GA resolution 68/191 of 18 December 2013 entitled "Taking action against gender-related killing of women and girls". In the said resolution, the General Assembly requested the Secretary-General to convene an open-ended intergovernmental expert group meeting on gender-related killing of women and girls to discuss ways and means to more effectively prevent, investigate, prosecute and punish gender-related killing of women and girls, with a view to making practical recommendations, drawing on best practices, in consultation

with relevant United Nations entities and human rights mechanisms. It also requested the Secretary-General to report to the GA at its 70th session on the implementation of this resolution.

The Government of Thailand hosted the meeting from 11 to 13 November 2014 in Bangkok. Participants (around 120 pers.) included experts from 31 countries, representatives from UN entities and civil society. We would like to express our appreciation here to those who actively participated in the meeting and shared their experiences and best practices which resulted in practical recommendations as contained in the report of the meeting (UNODC document number E/CN.15/2015/16) available on the UNODC website.

Challenges in criminal justice response to gender-related killing of women and girls, the most extreme form of violence, remain. Women around the world are still suffering from different manifestations of violence, from day-to-day domestic violence to violence against women in armed conflict situations. This calls for states to accelerate their efforts in addressing underreporting, lack of coordination in data collection and analysis, inadequate gender-specific approach in justice system that may cause re-victimization and grant impunity.

In this connection, Thailand, together with Croatia, submitted a draft resolution pertaining to the practical recommendations from the open-ended intergovernmental expert group meeting, to ensure effective justice responses through data collection and analysis, prevention, investigation, prosecution and sanction as well as victim assistance. The draft resolution also requires a more concerted effort, nationally and internationally, to address such crime.

The main co-sponsors would like to seek support from all Member States and possible co-sponsorship to this draft resolution as we received since the previous resolution. We open for further comments and suggestions and ready to discuss with interested delegations from now until the session begins.

Thank you.

2.1.3. STATEMENT BY UNODC EXECUTIVE DIRECTOR YURY FEDOTOV: THE KILLING OF WOMEN AND GIRLS SHAMES EVERY SOCIETY

Vienna, 19 May 2015

Women and girls continue to be killed in large numbers around the world. Based on estimates from UNODC at least 43,000 women were murdered by their intimate partners or family members in 2012.

These murders, however, are only the most visible and brutal sign of what is happening to millions of women. Hidden from our view are the dreadful daily experiences of violence, including terrible sexual violence, that blights the lives of women and girls. Such experiences occur in the countryside and in cities alike; as well as in schools, work places and especially the home.

We must also acknowledge that, just as no society is immune from these violent acts, we are all part of the solution. No woman or young girl must be allowed to feel isolated or in danger. This means promoting inclusive societies that not only provide women with much needed security, but also offers them opportunity, equality and prosperity.

UNODC is working to unravel the gender bias that has been woven into many legislations and criminal justice systems and which perpetuates impunity for these violent acts. Our work encourages all those in the criminal justice system to respect and protect women and girls and to view domestic violence as a serious crime.

Violence against women and girls, in all its many forms, shames us all. To end this serious crime, we must all work in a spirit of partnership and cooperation to change laws, change perceptions and change behaviours. If not, we will continue to see this violent crime undermine our efforts to build better, more inclusive societies.



2.2. SIDE EVENT AT THE 24TH SESSION OF THE UN CRIME COMMISSION VIOLENCE AGAINST WOMEN:

FROM RAPE TO FEMICIDE – CRIMINAL JUSTICE AS PREVENTION AND CURE?
Vienna, 19 May 2015



2.2.1.FEMICIDE

Sita Sumrit

In Thailand, it is estimated that rape occurs every 15 minutes. This alarming figure tells us that sexual violence is endemic to our society and remains an intractable problem. Yet women continue to suffer from the fear and trauma of being sexually violated. Most rape cases go unreported due to the shame and stigma attached to rape and its victims. Partly due to an underlying patriarchal culture and institutions which are unsympathetic to female victims of sexual violence, reporting rape is proven to be a traumatic thing to do. Women are often blamed for what has happened, even to the extent of allegations that the victim was “asking for it”. The victims are questioned about what they wore, their whereabouts and reluctance to cry for help in the first place. Hence, it is not surprising that under-reporting has posed a major challenge in tackling sexual violence as many women choose not to be “repeatedly” raped: the physical act followed by the stress and indecencies of reporting to the authorities and proceeding through the justice system.

Gender discrimination, stereotyping and biases in institutional service providers constitute major barriers for women to access and obtain justice. Also, women are largely ill-equipped in terms of legal literacy and knowledge on how their rights can be protected and upheld through the justice system. Gender sensitivity needs to be integrated into the way we service, administer and provide justice. Sound legislation in addressing these issues is a very promising step towards justice for victims, but it is not sufficient in itself.

Furthermore, we need to empower and educate, not only women, but also the various actors that formally or informally are part of the justice system. Resources and knowledge need to be invested to establish quality essential justice services for victims that prioritize their safety, protection and support. Institutional capacities have to be built in order to transform organizational cultures and improve gender awareness and sensitivity. Overall, we must promote an integrated and coordinated criminal justice, Government and civil society response.

And of course, we need to understand that sexual violence is a gender based crime and that its root causes lie more fundamentally in the unequal power relations between men and women. Law is one of the critical instruments to alleviate the problem and help us attain better justice for these women. But we also need to acknowledge that law is not gender neutral, it is written, administered and enforced by society as a whole: gendered creatures whose biases and pre-conceptions, formed through social conditioning and within a cultural setting, could adversely affect “justice”. Therefore, violence against women must be tackled through a multi-pronged approach that recognizes its complex root causes, and is part of a larger, comprehensive effort that seeks to improve gender relations in our society.

Presentation of Eileen Skinnider, Senior Associate, International Centre for Criminal Law Reform and

2.2.2.PRESENTATION ON AVAILABLE TOOLS TO ENHANCE THE CRIMINAL JUSTICE RESPONSE TO VIOLENCE AGAINST WOMEN AND GIRLS

Criminal Justice Policy

It is a pleasure to be here this afternoon as part of the panel discussing the role criminal justice can play in preventing and responding to various forms of violence against women, from rape to femicide.

FROM EVIDENCE BASED RESEARCH AND SOLUTION ORIENTED DISCUSSIONS TO KEY RECOMMENDATIONS

Research, as we’ve heard from Dr. Sumrit, and sharing of states’ good practices, in such forums like the intergovernmental expert group meeting on gender-related killing held last November, have led to a better understanding of the problem and what is needed to strengthen crime prevention and criminal justice response to VAW.

In an effort to assist States implement and put in practice key recommendations, which of course are informed by relevant international standards and norms, UNODC, along with partners such as the Thailand Institute of Justice, have developed a number of global practical tools.

REVIEW OF SOME OF THE KEY RECOMMENDATIONS

From a quick review of some of the key recommendations that these tools grew out of, and this slide replicates those recommendations from the regional attrition study Dr. Sumrit introduced, we know that:

- Quality essential justice services for victims is needed that prioritize their safety, protection and support to address the numerous barriers women face in reporting and participating in the criminal justice process.
- Institutional capacities need to be built to transform organizational cultures and create gender awareness and sensitivity among CJ service providers in order to address gender biases and persistent harmful stereotyping.
- Promoting specialized expertise at all stages of the criminal justice system, including multi-disciplinary units, is seen as a good practice
- An integrated and coordinated criminal justice, government and civil society response is recommended in order to change the manner in which the criminal justice system as a whole traditionally has responded to VAW, which has often placed the burden on the victim to navigate her way through the process.
- Effective internal and external oversight and accountability mechanisms are needed to provide recourse for victims who are being denied access to justice or being treated in a discriminatory manner.

RESEARCH LEADING TO KEY RECOMMENDATIONS

Recommendations from the Multi-Country Study: The Trial of Rape

1. Establish **quality essential justice services for victims** that prioritize their safety, protection and support
2. Build **institutional capacities** to transform organizational cultures and create gender awareness and sensitivity
3. Promote **comprehensive legal and policy** frameworks
4. **Mainstream gender** equality and women's empowerment into criminal justice policies, practices and resources
5. Develop effective internal and external **oversight and accountability** mechanisms
6. Promote **specialized expertise** at all stages of the criminal justice system
7. Promote an **integrated and coordinated** criminal, justice, government and civil society response
8. Develop effective **monitoring and evaluation** mechanisms
9. Prioritize **resources**, both human and financial

GLOBAL TOOLS TO ASSIST STATES IN IMPLEMENTING SOME OF THESE KEY RECOMMENDATIONS

In this short presentation I want to briefly introduce 2 of the tools that I have been involved in with UNODC and TIJ,

1. A Prosecution Handbook
2. A Blueprint for a coordinated and integrated criminal justice response and just mention what is currently in the works, being developed jointly by UN agencies.
3. DRAFT Essential Justice Services and Quality Standards (UN Women, UNFPA, UNODC and UNDP)

The UNODC tools, as well as others such as a Handbook and Training Curriculum for Police can be found on the UNODC website: www.undoc.org. And hard copies can be pick up in the back of this room.

HANDBOOK ON EFFECTIVE PROSECUTION RESPONSES TO VIOLENCE AGAINST WOMEN AND GIRLS

Going back to the recommendations, whether they are targeting changes to criminal justice actors, institutions and society, at the core of transformative change are people, people who need to think and act differently for change to be successful and for institutions, systems and societies to change for the positive.

The Handbook on Effective Prosecution Responses to Violence against Women and Girls, of course, aims to contribute to such transformative change in prosecution agencies and prosecutors. Prosecuting gender-based



violent crime can be challenging. Often there are a number of evidentiary challenges, due to the private nature of the violence, investigation may be substandard, victims may be perceived as uncooperative, judges or juries may employ gender biases or common myths when examining the credibility of the victim and the facts of the case. We know that the rule of law is undermined when impunity characterizes the criminal justice response to VAW. The information in the Handbook is to assist prosecutors in their duty to uphold the rule of law, and firmly protect human rights with impartiality and fairness in cases involving VAW.

Part One

The Handbook is divided into 3 parts:

The first part covers such topics as the international and regional human rights framework, it summarizes some of the research on how criminal justice systems have responded to VAW, such as studies on underreporting and attrition, as well as research on topics like false allegations. This part also includes a section on common myths about sexual and domestic violence. From the regional attrition study, we saw how such beliefs in social norms by CJ actors resulted in downplaying the perpetrator's responsibility and criminality while shifting the blame towards the victim, contributing to attrition throughout the CJ process.

Part Two

Part Two goes through the tasks of individual frontline prosecutors, from their role in investigation and relationship with police, to the decision to prosecute, the selection of charges, and trial considerations. Given the importance of ensuring a victim-centred criminal justice response, there is a lengthy section on dealing with victims, understanding their concerns and their rights, issues of protection and support, and how to approach victims who do not want to participate.

Part Three

Part three focuses on approaches for the prosecution agency as an institution to effectively address VAW. It mirrors some of the recommendations I mentioned previously, including, establishing specialized expertise; training and capacity development; inter-agency collaboration and coordination; and accountability and oversight.

BLUEPRINT FOR ACTION

Going back again to the recommendations, reforms are considered more effective when focusing on systems and not silos. The Blueprint for action provides a framework for developing national implementation plans for the criminal justice systems to respond to VAW in a coordinated and integrated manner.

- Coordination is important as it can set transparent standards and expectations from each agency and contribute to better communications and linkages between the different criminal justice agencies and service providers.
- It minimizes the silo effect of each agency's mandate by articulating a shared understanding of how to respond to VAWG. One that understands the dynamics of gendered violence and can transform the institutional culture of the criminal justice system away from institutional goals to one focusing on the safety and empowerment of women and girls.
- From the perspective of a victim, this means that she will be met with the same understanding of her rights and her situation and receive the same, high quality response from all criminal justice officials. As such the victim will have greater confidence in the system and increase her willingness to cooperate with the investigation and prosecution.

STRUCTURE OF THE BLUEPRINT

The Blueprint document is divided into four parts.

Part One: The Vision describes key principles that should guide every crime prevention and criminal justice action to address VAWG. These principles are based on the guiding principle section in the Updated Model Strategies and Practical Measures –namely there are to be human rights based, manage risk and promote victim safety and empowerment while ensuring offender accountability.

Part Two: sets out a **legislative checklist** for a comprehensive crime prevention and criminal justice approach to addressing VAWG.

Part Three: provides the framework for countries who want to design a coordinated criminal justice



response. Remember that it is a global tool, meant to be useful to all states, involving a variety of legal traditions and cultures, so these elements are broadly described and would have to be tailored to the specific context in each state.

This part summarizes the key steps for establishing coordination among the criminal justice agencies as well as ensuring appropriate linkages and referral pathways with and between other elements of an integrated multi-sectoral service system for victims of VAWG.

Essential Justice Services and Quality Standards

I want to end with some information on the recent work being undertaken by UNODC, along with UN Women, UNFPA and UNDP - the Global Technical Consultation on Essential Services to Respond to VAWG.

A draft strategy for essential justice services and quality standards has been developed to address the issue of VAW from a broader justice perspective. This covers all legal domains, including criminal, civil, family and administrative law recognizing that victims need access to justice options that suit them and their circumstances.

It also recognizes the need to harmonize justice services, so if survivors of VAW are involved in multiple justice forums, such as being a complainant in a criminal case and a plaintiff in a family law case, essential services need to be in place to ensure that there is sharing of information between the courts to ensure that their orders do not increase the levels of risk to the women and her children.

The Guidelines for the strategy for essential justice services is still in draft form and the plan is to pilot them before finalizing them.

In conclusion, I just want to say that there are many other useful tools out there, and particularly rich with information is the UN Women Virtual Knowledge Centre on the Elimination of Violence that has excellent modules on legislation, justice and security. The tools I have mentioned today were built on and meant to complement the many other efforts undertaken by others that provide guidance towards ending impunity to VAW.



PART III: RECENT STATEMENTS AND INPUTS FROM THE 13TH UNITED NATIONS CONGRESS ON CRIME PREVENTION AND CRIMINAL JUSTICE

3. INPUTS FROM THE ACUNS ANCILLARY MEETING: GENDER RELATED AND MASS KILLING OF WOMEN AND GIRLS, April 13, 2015

"There is no single way of addressing the complex, interwoven causes and symptoms of violence against women. As violence breeds more violence, children who experience or are exposed to violence at home are much more likely to perpetuate the cycle of violence as adults. Breaking that cycle must be a top priority for action by governments and their partners so that women the world over can have their rights to safety and security upheld."

—Helen Clark, UNDP Administrator

3.1. DOHA DECLARATION

Doha Declaration on integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation

(f) To mainstream a gender perspective into our criminal justice systems by developing and implementing national strategies and plans to promote the full protection of women and girls from all acts of violence, including gender-related killing of women and girls, in accordance with the obligations of parties under the Convention on the Elimination of all Forms of Discrimination against Women⁷ and its Optional Protocol,³⁶ and taking into account the updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice³⁷ and General Assembly resolutions on the gender-related killing of women and girls;

(g) To promote gender-specific measures as an integral part of our policies on crime prevention, criminal justice and the treatment of offenders, including the rehabilitation and reintegration of women offenders into society, taking into consideration the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders;³⁸

(h) To develop and implement appropriate and effective national strategies and plans for the advancement of women in criminal justice systems and institutions at the leadership, managerial and other levels;

(i) To enhance equality for all persons before the law, including gender equality, for individuals belonging to minority groups and for indigenous people, through, inter alia, a comprehensive approach with other sectors of government, relevant members of civil society and the media, and the promotion of the recruitment by criminal justice institutions of individuals belonging to these groups;

3.2. KEY-NOTE STATEMENT BY WOLFGANG BRANDSTETTER, AUSTRIAN MINISTER OF JUSTICE

Excellences,
Your Royal Highness,
Friends and Colleagues,

I am very pleased to be able to participate in this High Level Panel on Femicide, a global Issue that really demands our attention. I wish to congratulate the Academic Council on the United Nations System for organizing this meeting and keeping the issue before the UN Crime bodies.

The Austrian government is pleased to have co-sponsored the third *Femicide* publication, which I understand is available at the back of the room –for those who do not yet have a copy.

For Austria, women's rights and the fight against violence and discrimination against women is a corner stone not only of national policy but also of foreign policy. Austria not only contributes to the UN Trust Fund for violence against women, and has many assistance projects to empower women but also has an active national Task Force to Combat Trafficking in Women and Girls and provides asylum to people fleeing femicide.

³⁶ United Nations, Treaty Series, vol. 2131, No. 20378.

³⁷ General Assembly resolution 65/228, annex.

³⁸ General Assembly resolution 65/229, annex.



Austria has ratified the Council of Europe Convention on 'preventing and combating violence against women and domestic violence. As many of you know this Convention is open to all United Nations Member States. We therefore encourage all countries, here present, to consider signing this international legally binding instrument to prevent violence, protect victims, and to end impunity for perpetrators of femicide.

Media reports almost daily describe new forms of bestiality against women –attacks on schools, kidnapping and enslavement of girls, forced marriages of girls, slave markets of women and girls, gang rapes in public spaces, torture and mutilation, acid attacks, and murders committed in the name of "honour". I am glad that this forum is focussing on 'Targeting Women in War'. Austrians were both perpetrators and victims of these tactics during and after World War II. In our neighbourhood the raping and killing of women as a weapon of war happened less than less than two decades ago. Bosnian and Croatian refugees who survived these horrors have been given asylum in our country and are still being psychologically assisted.

However, that such war crimes and crimes against humanity still largely go unpunished is a scandal for civilized people in the 21st Century. There has been a beginning- in the charges being brought against war criminals in the International Criminal Court, and in the Yugoslav and Rwanda Tribunals. A few courageous countries have also accused their own officers for ordering or participating in the mass killing of women and girls. The United Nations is also now holding its peacekeepers responsible for rape and sexual exploitation.

These are good signs. Austria is also proud to have cosponsored the original General Assembly resolution "Taking Action to 'halt the Killing of Women and Girls'". We also participated in the International Expert Group Meeting on Gender Related Killings of Women and Girls, held in Bangkok in November last year. We are also prepared to co-sponsor a successor resolution this year to continue the mandate of UNODC in this area, but this year with a special emphasis on the targeting of women in conflict.

I realize that we are among a group of friends in this room. It is important that we reach out to the sceptics who believe that little can be done in times of conflict. Just as Beijing Declaration, the Convention for the Elimination of Discrimination Against Women, the Geneva Conventions, the Land Mines Treaty, and the Arms Trade Treaty were difficult to negotiate, it should be possible to uphold inter-religious admonitions to uphold the respect for women and children and hold those persons responsible for these atrocities. But also hold Member States in whose territories these crimes occur accountable for acts of commission and omission.

Thank you for your attention and I wish you well in your campaign to bring this issue to the General Assembly. You make count on my country's support.

3.3. REMARKS BY MRS. KANCHANA PATARACHOKE, DEPUTY DIRECTOR-GENERAL OF THE DEPARTMENT OF INTERNATIONAL ORGANIZATIONS, MINISTRY OF FOREIGN AFFAIRS OF THAILAND

Chair,
Excellencies,
Distinguished Participants,
Ladies and Gentlemen,

1. It is truly an honour for me to join you here today.
2. I had the honour of chairing the meeting of the Open-ended Intergovernmental Expert Group on Gender-Related Killing of Women and Girls in Bangkok last November. The meeting was organized in accordance with UNGA resolution 68/191 entitled "Taking action against gender-related killing of women and girls".



3. The resolution requested the Secretary-General to convene the meeting to discuss ways and means to more effectively prevent, investigate, prosecute, and punish gender-related killing of women and girls, with a view to making practical recommendations, drawing on current best practice, in consultation with relevant United Nations entities and human rights mechanisms.
4. I took on the chairmanship feeling that, as a woman, this was the least I could do. It was personal for me. I learnt a lot from the three-day meeting. Given the short time allotted to me, I would like to share with you gist of the results of the meeting.
5. One thing that was clear from the meeting was that everyone recognizes the importance of gender-related killing of women and girls, particularly the high level of impunity and the need for accountability for perpetrators. Those who committed the crime often do not get duly punished.
6. We were also unclear about the scope of gender related killing and feel that we need to attach importance to not only mass killing of women and girls but also deaths resulting from everyday violence.
7. Killing is the end result of an extended continuum of violence. While we identify mass killing as one extreme end, everyday violence, rape, and domestic violence remains at another end, unreported and unduly recognized.
8. The participants also highlighted the need for measures to prevent and address these crimes, taking into consideration specific situation in each country. Violence is, like anything else, context specific. We need to understand the context, in order to prevent it or to ensure that we can find proper solutions. We need to tailor our approaches to address different forms of gender-related killing.
9. It was also stressed that state has a duty to strongly condemn all forms of violence against women and refrain from invoking any custom, tradition, religious consideration to avoid its international human rights obligations.
10. The meeting also recognized the need for strong and effective legislation. We strongly felt that prevention is the key. Prevention is a cost-effective investment. It saves lives. We talked about the need to have a specific offense for gender related killing, but at the same time, we need to make sure that our laws are preventive and do not wait until such killing actually takes place, but it does not tolerate any violence since early on.
11. Prevention can start at home and in school. Working on public awareness and changing people's mindset is most important. How a child is brought up will determine how he or she acts as a grown up. What one learns in school, what we read in newspapers, what we see on television, what we experience in our daily life, these experiences influence our behavior. This is why we must work to cultivate the right kind of attitude and mindset.
12. From the November meeting, we learned that we can be innovative about prevention and protection. One specific case comes to my mind. Actually it was a case brought up by my colleague from the Office of the Attorney General. It was about how to use convenience store like 7-11, or any other 24-hour convenience store, to provide a safe shelter, somewhere to go to for women who faced domestic violence or other violations. I thought it was a brilliant idea. A true public and private partnership.
13. We also talked about the need to enhance credibility of criminal justice system, continuously improve the justice system, take gender perspective in the process of drafting legislation, and consider gender sensitive budgeting. Capacity building activities such as sharing of best practices and examples of laws, regulations, and codes of ethics are useful tools. Women and girls will need to trust the justice system so they are more willing to come forward and seek help in a timely manner and do not wait until the situation gets out of hand.
14. We talked about the need to avoid re-victimization. For example, we talked about using videotaped testimony of victim to avoid repeating trauma. We talked about the need to engage different



stakeholders, especially the role of regional organizations in conflict situations for delivering humanitarian assistance and providing access to justice. We talked about women in times of armed conflict and how we need to cater to their needs. Thailand has deployed female police on peacekeeping operations. These women told me that because they are women, they have an easier time helping women who suffered from abuse during the time of armed conflicts. We have also talked about the need to provide safety zones for women and children in armed conflict situation. We also talked about the need to have special police units and judges for women.

15. Last but not least, I would like to talk about the importance of data and statistics. The meeting recognized the importance of collecting, analyzing, and disseminating disaggregated data on violence against women and gender related killing. We talked about the need for qualitative data to explain the causes and motivations for gender related killing and to provide insights into survivors' experiences. We talked about the need to gather information from various sources such as national survey, victim survey, official records of health and criminal justice agencies and national systems for reporting violent deaths.
16. Challenges include the availability of data, underreporting, differences in definitions and collection methodologies, difficulties in assessing data, limited resources, capacity, insufficient training, and poor coordination between agencies. Data and statistics are important for making informed policy decision and for assessment. We need to know where we are, and where we are going. What are our goals? We need direction, targets, and indicators.
17. One last point I would like to leave with you is that victims are not only those who are killed, family members and relatives are also victims. The society and community can also fall victims as a result of gender related killing and violence.
18. I recall saying at the closing of the November meeting that if our work means saving even one life, it is worth it. So I would like to say the same thing today. If our work today means saving even one life, it is worth it.

Thank you for your kind attention.

3.4. STATEMENT BY ANNA ALVAZZI DEL FRATE: WOMEN AND ARMED VIOLENCE: PATTERNS OF FEMALE VICTIMIZATION AND INTERNATIONAL INSTRUMENTS FOCUSING ON THE PROTECTION OF WOMEN AND CONTROL OF SMALL ARMS

Contributions³⁹ to the 13th UN Congress on Crime Prevention and Criminal Justice, in Doha, Qatar, 12-19 April 2015

Anna Alvazzi del Frate and Jovana Carapic

Gender equality cannot be achieved without addressing all forms of violence against women. Yet in academia and policy circles, violence against women tends to be equated predominantly with various forms of sexual exploitation and abuse and related information collected on the basis of the experience of survivors. For the most part, lethal firearm-related violence against women tends to be excluded from analysis and policy debates. In recent years the risk that firearms pose to the safety of women across contexts has been recognized, leading to a convergence of agendas on women, peace, and security and small arms control.

³⁹ This contribution is based on two presentations given during the session on 'Mass killing of women' (13 April) and 'SDG Goal 16: Measuring armed violence reduction and prevention' (17 April), as well as Alvazzi del Frate (2015, forthcoming).



1. WOMEN AND VIOLENCE

The Geneva Declaration's Global Burden of Armed Violence 2015 report has found that between 2007 and 2012, on average, 60,000 women were killed violently around the world every year, representing approximately 16 per cent of the global number of intentional homicides. Equally so, other studies suggest that females represent between 16-21 per cent of total homicide victims (UNODC, 2014, p. 13; Geneva Declaration Secretariat, 2014b; WHO, 2014, p. 9). This translates into a global average rate of 2.5 female homicides per 100,000 of population, compared to 10.8 for males (WHO, 2014, p. 9).

High levels of violence in society correlate with high numbers of females killed. Countries in Central America, the Caribbean, and Latin America rank highest in female homicides – these regions also rank at the top of homicides rates in general (Racovita, 2015, p. 97). Nevertheless, in such settings females make up only a small proportion of overall homicide victims; the majority of all victims killed are male. Indeed, the highest proportion of female to male victims is found in the least violent settings.

In most countries in the Americas, rates of violent death are much higher than the global average, resulting in a regional rate of intentional female homicide of 4.4 per 100,000 women (Geneva Declaration Secretariat, 2014a). The Asia-Pacific region accounts for only 22 per cent of the total number of male victims of homicide, but almost double share of female victims: 43 per cent of the global total (Geneva Declaration Secretariat, 2014c). Furthermore in Europe, where homicide rates are generally low, the proportion of females to males killed is almost twice the global average (31 per cent as opposed to 16 per cent, Geneva Declaration Secretariat 2014b).

Violence against women rarely occurs as an isolated incident. It frequently develops in the domestic environment, is committed by a current or former partner,⁴⁰ and often escalates to lethal violence (Campbell et al., 2003; McFarlane et al., 1999). When a woman is killed in these circumstances, there may be further indirect casualties: in many cases, the perpetrator commits suicide and/or kills others, including children, witnesses, or passers-by.

Women make up a small proportion of victims in other forms of collective violence, too, such as mass shootings. Often operationally defined as instances in which at least four people are killed, mass shootings generally involve males as perpetrators and victims. There are few instances, however, of mass shootings targeting women. The most notorious case was the on attack on female university students at the École Polytechnique at the University of Montreal on 6 December 1989, when a male shooter killed 14 women and injured at least 13 others (Tonso, 2009, p. 1271).

Any type of hardship and deprivation, including conflict and emergencies, increases the risk of exploitation of and violence against women. Although the majority of casualties in armed conflict are males, in some cases the proportion of females killed is high. For example, in Syria the percentage of female victims killed increased from less than 1 per cent in April 2011 to over 13 per cent in March 2015 (Humanitarian Tracker, 2015). During the 2014 Ebola crisis, cases of domestic and sexual violence increased dramatically in West Africa (IRC, 2014).

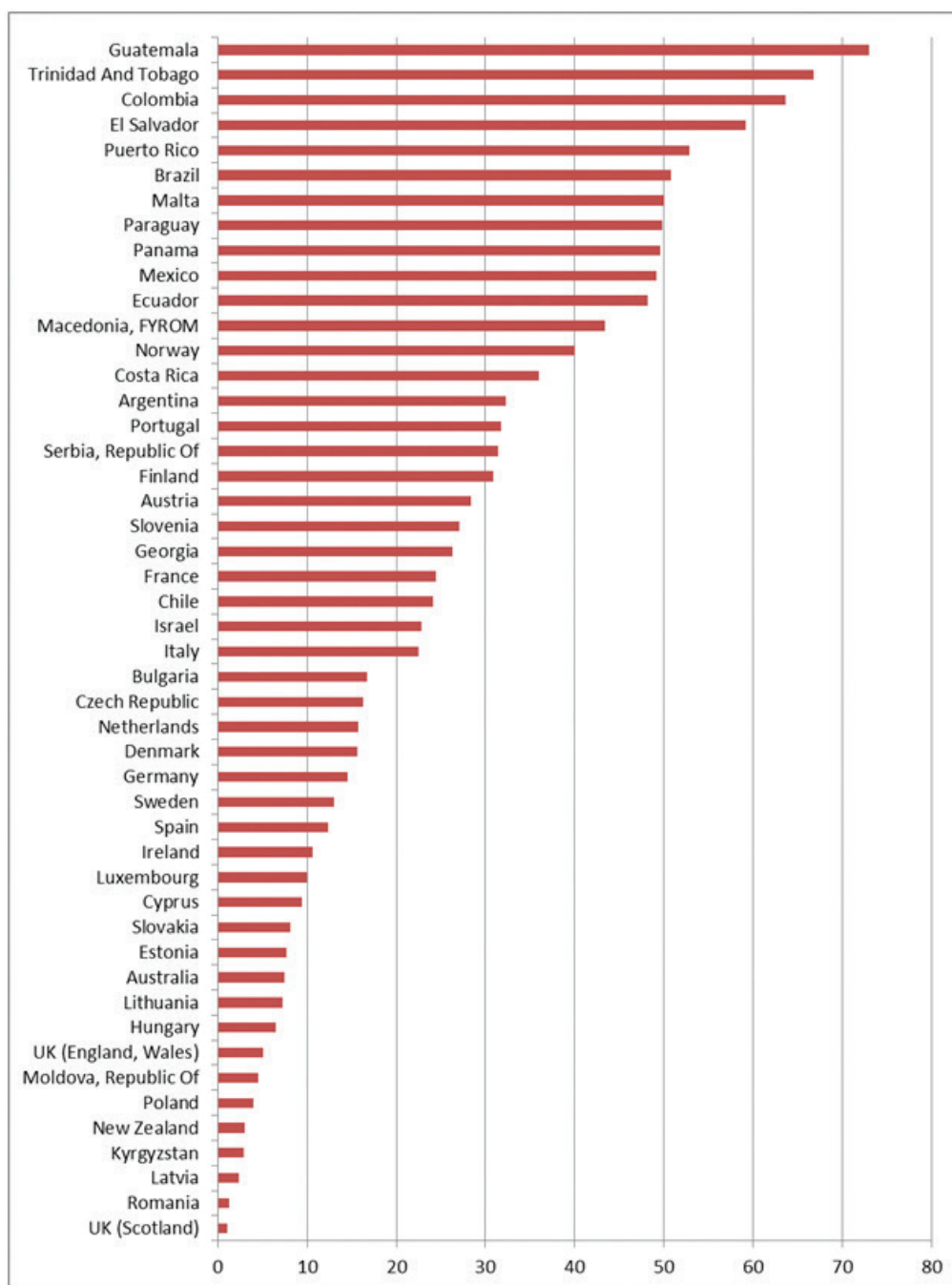
2. INSTRUMENTS OF VIOLENCE AGAINST WOMEN: FOCUSING ON FIREARMS⁴¹

While the role of firearms in the killing of men is well known, the use thereof in female homicide is under-researched mainly due to a lack of statistics which are both gender-disaggregated and record the type of instruments used. For example, in the Global Burden of Armed Violence 2015 report, data on firearm killings of women and girls were available for only 50 countries/territories. In nine of the countries, however, approximately 50 per cent or more of female homicides were firearm-related for the period 2007–2012. With the exception of Malta, the ten countries/territories with the highest percentages of firearm-related female homicides are located in Latin America (Geneva Declaration Secretariat, 2014; Racovita, 2015, p. 104).

⁴⁰ Many different sources indicate similar findings and conclusions. See, for example, US Bureau of Justice Statistics (<http://bjs.ojp.usdoj.gov/content/homicide/intimates.cfm#intgender>), WHO et al., 2013, and Stöckl et al. 2013 (in which it was estimated that as many as 38% of female homicides globally were committed by male partners, whereas the corresponding figure for men was 6%).

⁴¹ This section draws on Racovita (2015).

Figure 1 Average percentage of female homicides committed with firearms, in 48 countries and territories, 2007–12



Note: Figure 1 presents data for only 48 out of 50 countries and territories. Hong Kong and Uzbekistan are not shown as they have no registered firearm-related female homicides through the relevant period. Source: Geneva Declaration Secretariat (2014), Racovita (2015, p. 104).



Firearm violence affects women and girls in public and private spaces. Data shows that women are killed with firearms more frequently in countries and territories afflicted by higher levels of firearm violence. Where the levels of armed violence are lower, percentages of women and girls killed by firearms are also lower (Alvazzi del Frate, 2011, p.131). The availability of firearms in the home has a stronger association with both the killing and the suicide of females compared to the same for male victims (Racovita, 2015, pp. 100-107; Shaw, 2013, pp. 25-26; Van Kesteren, 2014).

In some contexts, firearms are also associated with cases of homicide-suicide, which most frequently involves the use of guns (Liem and Oberwittler, 2012; Mathews, 2008; Shaw, 2013, p. 17). Unlike males, females rarely commit suicide with firearms, as women generally chose other methods (notably poisoning by drug overdose, Alvazzi del Frate and Pavesi, 2014).

Available research suggests that raising awareness of the dangers of firearms and limiting access to them may be effective in reducing violence in some circumstances, such as domestic violence (Racovita, 2015, pp. 102, 105). Interventions that limit the consequences and escalation of firearm-related violence inside the home include: withdrawing gun licences following incidents of intimate partner violence, running awareness-raising campaigns to alert women and girls about the dangers of firearms and their link to intimate partner violence, and challenging cultural attitudes to the relationship between guns and masculinity (Shaw 2013, p. 18).

3. WOMEN, PEACE, AND SECURITY AND SMALL ARMS: MOVING ON AND MEASURING PROGRESS⁴²

For the past three decades, the international community has increasingly stressed that the way towards improving the political, economic, and social status of women lies in realizing the respect of women's rights and gender equality. Instruments – such as the UN Convention to Eliminate all forms of Discrimination Against Women (CEDAW, 1979), the Convention of Belém do Pará (1994), and the 1995 UN Conference on Women in Beijing and its subsequent Platform for Action – have not only brought the plight of women worldwide to the forefront of policy debates, but have also denounced the use of violence against women and girls in conflict and non-conflict settings.

Despite the awareness of the impact of firearms violence on women and girls, in the past firearms control has not been spelled out in international instruments dealing with gender issues. For instance, the international agenda on Women, Peace & Security – which is framed by the United Nations Security Council Resolution (UNSCR) 1325, and the six others that followed it – does not explicitly mention the role of small arms. Similarly, instruments aiming to control the flow of small arms either refrain from mentioning the use of firearms for committing violence against women or make passing comment on it, such as the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001).⁴³

It is only recently that the international community has recognized the need to reconcile the two global agendas on women, peace, and security and small arms (Bastick and Valasek, 2014).

On the one hand, instruments focusing on female security and empowerment – such as the 2012 UN Secretary-General report on Women, Peace and Security,⁴⁴ the General Recommendation No. 30 of CEDAW on Women in Conflict Prevention, Conflict and Post-Conflict Situations (2013),⁴⁵ and the General Assembly Resolution on Women, Disarmament, Non-proliferation and Arms Control⁴⁶ – have made explicit the link between availability of firearms and gender-based violence against women, including domestic and sexual violence. On the other hand, international instruments for the control of small arms -- including, the Second Review Conference (2012) and Fifth Biennial Meeting of States (2014)⁴⁷ of the UN Programme of Action on Small Arms and Light Weapons, UNSCR 2117 on small arms (2013),⁴⁸ and the Arms Trade Treaty (2014) – have also placed more emphasis on the risk that firearms pose to women.

⁴² This section draws on Alvazzi del Frate (2015, forthcoming).

⁴³ A/CONF.192/15, para 6.

⁴⁴ S/2012/732 of 2 October 2012.

⁴⁵ CEDAW/C/GC/30, 18 October 2013.

⁴⁶ A/RES/69/61, 2 December 2014.

⁴⁷ A/CONF.192/2012/RC/CRP.3/Rev.3 and A/CONF.192/BMS/2014/2 respectively.

⁴⁸ S/RES/2117, 26 September 2013.

CONCLUSIONS

This contribution has discussed aspects of (lethal) violence against women and girls, with special emphasis on firearm violence and the international instruments available for addressing it. Data shows that violence against women and girls prevails across countries and territories and is particularly conspicuous in relatively peaceful societies, where women and girls represent a larger portion of the total number of homicide victims. Special attention to firearms and their impacts on women and girls has recently been mandated by the converging agendas of the women, peace, and security and small arms.

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3.5. SPECIAL ADDRESS BY HELEN CLARK ON THE INTERNATIONAL DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN: TACKLING VIOLENCE AGAINST WOMEN AND GIRLS: AN URGENT PRIORITY

Today is the International Day for the Elimination of Violence against Women -- a day which reminds us that violence against women continues to be destructive and pervasive. Ranging from domestic violence and child marriages to the use of rape as a tactic of war, violence against women kills as many women between the ages of 15 and 44 as cancer, is a grave assault on many more women and girls and imposes high economic and social costs on societies.

In responding to gender-based violence, the financial costs to health systems, social services, the justice sector and indirect costs, such as those of lost productivity, burden countries around the world. From Chile, where intimate partner violence is estimated to drain as much as two percent of the country's GDP, to the United States, where the cost of domestic violence is estimated to exceed \$12.6 billion per year, violence against women imposes high costs on both its victims and society. Yet, when women are able to live in a safe and secure environment, they can participate effectively in the economy and society. This helps overcome poverty, reduces inequalities and is beneficial for children's nutrition, health and school attendance. Every woman and girl has the right to live in safety in her home and community.

At UNDP, we address the problem of gender-based violence in partnership with other organizations, including NGOs and civil society. We aim to contribute to reducing violence and to promote women's economic, legal, social and political empowerment. Through our programs, we provide legal and psychological support to victims, and we target the underlying causes of violence.

Improving women's access to the justice system and to legal aid is vital. In conflict and post- conflict countries where justice systems, security and the rule of law have broken down, women are particularly at risk. To counter this, in countries such as the Democratic Republic of the Congo, we are helping to strengthen the justice sector so that the many cases of rape and violence committed by combatants can be addressed. Impunity for perpetrators must end.

In addressing sexual and gender-based violence, it is important to know more about the entrenched attitudes and values which perpetrate it. A recent joint report by UNDP, UN Women, UN Population Fund and UN Volunteers surveyed 10,000 men in Asia and the Pacific. It found that 80 percent of men who admitted to committing rape in rural Bangladesh and China cited a sense of sexual entitlement as their motivation. Of those who perpetrated the violence in those countries, the vast majority never faced any legal consequences.

In addition to having more research and better data on violence and inequality, governments should also assume a stronger role in designing and implementing policies to protect women. Political will and funding are required. In Thailand, the government has developed a set of indicators to monitor the development and effects of a new law to protect victims of domestic violence. Understanding these factors will be invaluable in preventing future violence against women.

Having more women parliamentarians committed to addressing the issues helps too. In Togo, one of many countries where UNDP has worked to boost the political participation of women, the Women Parliamentarians Caucus is campaigning for a new law to improve the protection of women and children from violence.

There is no single way of addressing the complex, interwoven causes and symptoms of violence against women. As violence breeds more violence, children who experience or are exposed to violence at home are much more likely to perpetuate the cycle of violence as adults. Breaking that cycle must be a top priority for action by governments and their partners so that women the world over can have their rights

to safety and security upheld.



3.6. STATEMENT BY THE UNSPECIAL REPRESENTATIVE OF THE SECRETARY - GENERAL ON SEXUAL VIOLENCE IN CONFLICT, ZAINAB HAWA BANGURA, ON FIRST ANNIVERSARY OF THE SINJAR TRAGEDY, 3 AUGUST 2015

One year ago today, militants from the Islamic State in Iraq and the Levant (ISIL) brutally attacked as many as 200,000 civilians, most of them members of the Yezidi community, as well as members of the Shi'a Turkmen, Shi'a Shabak and Christian communities, causing them to flee to the Jabal Sinjar.

In the days that followed, amidst horrific killings, ISIL hunted down and caught hundreds of women and girls from ethnic and religion minorities, instituting a pattern of sexual violence, slavery, abduction and human trafficking that continues to this day.

First-hand accounts from internally displaced persons and refugees, some of whom I met during my visit to the Middle East in April, confirm systematic sexual violence, particularly against Yezidi women and children aged between eight and 35 years. Young women are being "sold" in open markets, gifted to foreign fighters, trafficked for sex in the region to raise funds and increase recruitment among ISIL's ranks. Women and girls are also used for forced procreation, to populate the desired new "Caliphate" with children who can be raised in ISIL's own warped image.

These appalling crimes of sexual violence in conflict, which may amount to war crimes, crimes against humanity and/or acts of genocide, will not be forgotten. The international community stands united in the goal of pursuing the perpetrators and holding them to account.

I reiterate my calls today on the Global Coalition to Counter ISIL to include protection and empowerment of women and girls in their strategies to counter terrorism.

On this day, I also want to draw particular attention to the needs of the survivors, their families and communities. There is an acute lack of health care available to the survivors, including reproductive health, psychosocial and other critical services. Capacity-building of relevant practitioners and local actors who speak the local languages and understand the cultures is also needed.

Service delivery must be part of a multi-pronged conflict-related sexual violence response effort that also prioritizes security, justice and political commitment.



PART IV: Academic Articles on Femicide and other Extreme Manifestations of Violence against Women

"More girls were killed in the last 50 years, precisely because they were girls, than men killed in all the wars in the 20th century. More girls are killed in this routine gendercide in any one decade than people were slaughtered in all the genocides of the 20th century."

– Nicholas D. Kristof, Half the Sky: Turning Oppression into Opportunity for Women Worldwide



4.1. “HONOUR,” “HONOUR”- BASED VIOLENCE AND SO-CALLED “HONOUR” KILLINGS

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ABSTRACT

In recent years, violence against women and girls committed in the name of “honour” has attracted increasing attention across the globe. Unfortunately, media accounts and policy discourses concerning honour-based violence (HBV) and so-called honour killings have principally viewed the problem through the lens of cultural essentialism. This comment piece seeks to identify and interrogate the structures and ideologies that underpin HBV as a form of gender-based violence. Furthermore, it will avoid the common trap of simplistically viewing culture, ethnicity, religion or nationality as the sole causal factor behind this complex phenomenon. Current understandings as to the motivating factors behind HBV and the impediments to effective responses, regarding not just legal and political measures but also economic and social ones, are discussed, and measures aimed at addressing these impediments are offered.

FEMICIDE AND “HONOUR”

Cultural norms and practices can give rise to highly gender-specific forms of violence against women (VAW). Femicide, defined as the killings of females by males because they are females, is becoming increasingly recognized worldwide as one of the main ongoing manifestations of gender inequality (United Nations, 2014). Although the existing data are alarming, only a few countries collect this information (World Health Organization, 2012). Femicide includes intimate partner-related killing, forced suicide, female infanticide and gender-based sex-selective foeticide, female genital mutilation-related murders, HBV/honour killings, and the targeted killing of women during conflict and within the context of organised crime, among others (United Nations, 2014). A broader definition of femicide also raises the issue of possible state responsibility for women’s murders that can be seen as having been perpetrated as a result of the misogynous attitudes and/or socially discriminatory practices upheld by that state (Shalhoub-Kevorkian and Daher-Nashif, 2013; United Nations, 2014).

As it is difficult to determine in all cases whether women and girls have been killed because of their gender, researchers often count all the killings of women that take place (as a first step), and then differentiate between cases that are more or less strongly influenced by gender (United Nations, 2014; World Health Organization, 2012). A clear example of gender-based violence is the murder of a woman in the name of honour. HBV is usually differentiated from domestic and other forms of gendered violence since it occurs within a framework of collective family and community structures. Thus, “honour” crimes are perpetuated within the structure of the patriarchal norms and traditions, and tend to be surrounded by a strict code of silence (Gill, 2014).

“Honour” is defined as a virtue or character trait associated with integrity, good moral character and altruism (Vandello and Cohen, 2004). It is a symbolic and rhetorical construct, whose meaning is constantly contested as it carries different connotations in different cultural and linguistic groups (Sen, 2005). However, subtleties of meaning are often lost in the attempt to understand these differences – translations of terms that encompass “honour” rarely convey the totality of their culturally specific interpretations, and thus their meaning is distorted (Terman, 2010). For instance, the Urdu word *izzat*, translated into English as “honour,” refers to a spectrum of socio-cultural relationships and ties that bind family and community groups together (Gill and Brah, 2014).

As a general concept, honour is considered to be comprised of three facets: “a sentiment, a manifestation of this sentiment in conduct, and the evaluation of this conduct in others” (Pitt-Rivers, 1971, p. 21). It

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encompasses not only a person's estimation of his or her own worth, but also the acknowledgement of that claim by his or her community through the recognition of his or her right to respect. Thus, honour has multiple connotations and overlapping meanings related to pride, esteem, dignity, reputation and virtue.

HONOUR AND SHAME

In defining honour, many theorists emphasise the power of the parallel concept of "shame". Wikan (2008) contends that individuals in communities that value honour are not only motivated by a desire to obtain and maintain honour, but are equally concerned with avoiding shame. Honour and shame are dynamically interrelated in that honour "has to be continually reaffirmed in practice, reinforced in action, defended against challenge and re-won and advanced in competition" (Mandelbaum, 1988, p. 23). Honour relates to expected behaviour, while shame is associated with transgressions against these expectations. Shame is easier to measure as it involves action(s), while honour is a broad category that defies classification.

The specific acts deemed to increase or erode honour are subject to constant contestation and change. Moreover, honour and shame have distinct practical implications whereby men are expected to uphold their family and social group's honour by ensuring that "their" women do not bring shame upon the family. Although their own conduct is (theoretically at least) subject to moral judgement, this is often considered secondary compared to the scrutiny focused on females. In societies with honour-based value systems, honour is typically equated with the regulation of women's sexuality as well as attempting to ensure their conformity with social norms and traditions. The oppression that women face as a result of these imposed honour systems takes different forms depending on their location, their regional culture and their family's socio-economic status. For example, in some South Asian families, participation in professional/academic pursuits contributes to the family's honour, while in others, working outside the home is a source of shame (Gill, 2014).

Despite these variations, the vast majority of victims of HBV are women, and the perpetrators of the violence are most often the victim's male relatives. While older women may play a role in the perpetration of HBV, it is usually men who actually carry out the violence. Consequently, the perpetration of HBV can be considered a public display of patriarchal power. As Bourdieu (1977) claims, honour is always lived out in the open, in front of other people. The term "honour killing" is often used interchangeably with "honour crimes" and "honour-based violence." Tripathi and Yadav define honour killing as "an ancient practice in which men kill female relatives in the name of family 'honour'" (2004, p.64). In countries where honour killings occur regularly, many believe that killing for the sake of individual or collective honour is heroic. Likewise, men typically claim that their actions were impulsive, prompted by rage over the supposed violation of the prevailing honour code. Both types of response locate the propensity for violence not in men *per se*, but in culturally constituted ways of "being a man," which link masculinity with authorised acts of aggression (Hearn, 2004).

Although the word "honour" has many positive connotations, it is also commonly invoked to justify violence, abuse and even murder. Its role in motivating and legitimising violence against women and girls needs to be better understood if such crimes are to be effectively challenged. Critically, breaches of honour do not universally lead to violence by men against women, nor are women the exclusive victims. However, the overwhelming majority of cases involve violence perpetrated by men against women in order to obtain and/or preserve a social construction of "honour" (Bownman, 2007). Here, concern to protect families against dishonour caused by violations of the prevailing honour code outweighs any concern regarding the value of women's lives and their autonomy.

The use of the term "honour crime" is vexed. First, the application of this and similar terms to forms of violence that almost exclusively affect women lends support to the idea that "honour" is intricately concerned with women's (mis)behaviour and not men's. Second, the use of the word "honour" renders crimes so described as susceptible to "exoticisation." (Gill, 2014, p.4; Sen, 2005). Understandings of HBV that prioritise cultural explanations, especially those that consider it to be something that happens to "othered" women from "othered" communities, diverts attention from the essential role played by gender as well as the fact that VAW affects women across the cultural and ethnic spectrum. While academics and policy-makers need to be responsive to the diversity of women's lives both within and across national contexts, they should also be wary of painting a picture of cultural difference that reinforces cultural essentialism. Conceptualising HBV as a specific type of violence against women and girls legitimised by patriarchal honour codes avoids these pitfalls, while also recognising the critical role of gender.



While there is a tendency in the West to see so-called honour killings as related to specific cultural traditions, these crimes are not confined to a particular religion, culture, society or social stratum. Bourdieu (1977) argues that honour is not an aspect of cultural practice, but rather it emerges from a constellation of interpersonal exchanges. Thus, even though honour crimes are found in many different societies, each unique cultural context should be individually evaluated to determine how and why these practices have arisen. Furthermore, to understand the place of honour crimes within the continuum of forms of gendered violence (i.e. child/early/forced marriage and female genital mutilation), one must gaze inwards, instead of only upon the “other,” to enable a critical self-positioning that recognises and challenges violence predicated on “honour,” wherever it happens (Sen, 2005). However, violence against females also exists in the cultures that criticise the “other,” so these societies’ cultural practices cannot offer safety to women. Tackling so-called honour killings and HBV requires a shift in political thinking. Instead of simplistically conceptualising these crimes as arising from cultural traditions common to a range of “backward” (and thus, “othered”) societies, the issue needs to be (re)considered in the context of violence against women and girls (i.e. gender-based violence), and the patriarchal value systems found, in varying degrees, in all societies.

HOW TO ADDRESS THE MURDER OF WOMEN?

Policies and initiatives need to be grounded in the reality of the experiences of the victims/survivors of attempted murder and femicidal-based violence. Policy makers also need to recognise that acts of femicide occur within a general framework of the abuse of women – they do not simply happen “out of the blue” – and so need to be conceptualised as part of a broader effort to end gender-based violence. Globally, all states must ensure that the victims/survivors of attempted femicide, the family members and friends of the victims of femicide, and those who have been threatened with or have experienced gender-based violence, receive immediate, confidential and comprehensive assistance, including legal help and psychological and social support. It is important to create structures for prevention and damage control across global organisations. The most urgent requirement is to establish specialist refuges, shelters and support services for girls and women who are at risk of femicide and other forms of gender-based violence in the countries and communities in which this is most common, as an issue of basic human rights. If the world takes on the issue as a human rights violation in a principled way, building on the existing, crucial work of women’s activists across the globe, of the United Nations and of certain national and regional governments, femicidal violence in the name of ‘honour could finally become a thing of the past.

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4.2. FEMICIDE: THE CASE OF DOWRY DEATHS IN INDIA

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GENDER INEQUALITY

While the world is announced to be progressing and developing on many fronts, it still stands against its age-old parallel reality of gender inequality and gender discrimination, stemming from pervasive patriarchal norms. The Global Gender Gap Report of World Economic Forum (2014) ranked India at 114th place amongst 142 countries on Gender Gap Index (GDI). Gender inequality is reflected in areas of Health, Education, Economic, Social and Political inequalities. Gender-based violence is a vital resultant of gender inequality, which often impedes women in achieving their full potential.. It is estimated that one-third of South Asian women experience violence throughout their lives and violence against women (VAW) is institutionalised through family structures, wider social and economic frameworks, and cultural and religious traditions. This violence is insidious; it is a widely accepted method for controlling women. The data⁵¹ revealed an increase in the proportion of IPC (Indian Penal Code) crimes committed against women in the last five years from 9.2 per cent in 2009 to 11.2 per cent in 2013. The appalling reality of state institutions' inefficiency was documented with a 22.4 per cent conviction rate against a total of 309,546 cases.

FEMICIDE

It is within this framework of perpetual violence against women that we see the killing of women as femicide. Femicide was originally defined as a term to denote the phenomena of killing women, but has been well adapted over time which means killing women because of their gender. A significant element in the crime of femicide is the intentional killing of women and/or girls. Premised upon misogyny and prejudice, an implied intention behind the execution of crime and a demonstrated connection between the crime and the gender of the victim satisfies the conditions of femicide. Crimes against women that can be recognised as femicide include sexual murders, mortality resulting from domestic or family violence, and cultural or institutional violence that result in mortality. Femicide is an umbrella term that covers a range of violence against women, which comes within the bracket of femicide including cases of domestic violence, honour killings, dowry deaths, sex-selective abortions, infanticide, domestic violence and witch-hunting. Women are surrounded by a culture championing patriarchy which limits their exercise and accords them secondary status with little or no economic worth justified through customary practices. These cultural practices are structured in a manner that rationalises women's position in the society. According to a UN Women report⁵² women in India, unanimously, cited gender-based violence as a widespread and persistent challenge which is directly linked to alcoholism and dowry, among others factors.

One of the practices is the demand for dowry from the husband's side of the family, often culminating in dowry deaths in India. Dowry is a cultural practice where the bride is expected to bring economic capital to the husband's home and/or family after marriage. The practice has evolved over years into a method of economic exploitation where the in-laws and/or husband demand considerable amount of cash or commodities, sometimes extending to estates and luxury cars, before or after the marriage. India has witnessed the practice being transformed from a cultural practice to a social obligation, where non-compliance often results in violence and dowry-related deaths. India today faces an increasing number of

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⁵¹ National Crime Records Bureau report 'Crimes in India 2013 Compendium' published by Ministry of Home Affairs.

⁵² The report by UN Women- 'Hearts and Minds: Women of India Speak', 2014



deaths related to dowry, where a woman dies every hour (NCRB, 2013). The shocking numbers were not enough to awaken the country from its slumber of women's equality in 21st century. The number of deaths under this category of crime against women witnessed an increasing trend from the last few years which was 6,822 in 2002, 8,093 in 2007, 8,172 in 2008, 8,383 in 2009, 8,391 in 2010, and 8,618 in 2011 along with a decreasing rate of conviction. The data indicating growing numbers may also come from the fact that reporting rates have increased. *"The cases registered under the Dowry Prohibition Act have shown an increase of 299.0 per cent over 2003, an increase of 67.1 per cent over the quinquennial average of 2008 - 2012 and an increase of 18.5 per cent over the year 2012 (9,038 cases)" (NCR, 2013:40).* This alarming situation seems to be getting hostile against the female gender with the increasing number of deaths and reported cases in juxtaposition with the conviction rates.

DOWRY PROHIBITION LAW, THEN AND NOW

The dowry prohibition Act of 1961 forbids the practice of dowry, under which the payment and acceptance of dowry is prohibited and dowry-related violence and deaths also receive special mention within the Indian Penal Code. Being a witness and a forerunner in the historical movement against dowry, we protested in the year of 1984 to highlight the prevalence of the dowry deaths. Since conception of the law, not a single case was registered in the police stations. Our protests of 1984 brought cognizance to the issue and a sub-category of 'dowry deaths' was allotted consequently. The greatest of all the hazards is that despite the activity being illegal today; it is nonchalantly practiced in the name of tradition on a regular basis during marriages. It is almost an unsaid rule where the daughter is always expected to bring dowry with her, only the amount of the dowry has to be negotiated. Rising economic demands have perfectly intermingled with prevailing patriarchy. This has turned dowry into a commercial transaction. Factors such as strong patriarchal norms, growing poverty, and devaluation of women have led to expansion of dowry-related violence across the country. A common perception that persists is that women become the property of their husbands after marriage and that they are an economic burden for their husband, so the practice of dowry remains endemic.

Due to such paramount societal acceptance, many women and families do not lodge complaints with the police while there exist lacunae of extremely low conviction rates where cases are registered. The ensnared brides are helpless following their wedding and during the ordeal of fighting dowry cases with their in-laws. They have few or no means to support their legal battles. Another concern is that after the death of the bride, the victim's family compromises with the family of the accused because of the shame and for the sake of wedding prospects of their other unmarried daughters. The family often succumbs to societal pressure mounted on them to keep mum and not to protest. The two main reasons for the low conviction rates are poor police investigations, meaning there is little evidence to convict the perpetrators of dowry-related crimes and secondly, corruption within the police force often resulting in officers' accepting bribes from the accused's family and thereby refusing to register a case. Therefore, there is little deterrence in the minds of people, who continue to practice dowry and so dowry-related violence also continues almost unabated. The issue of dowry deaths is also being played up in politically. Politicians seldom condemn the practice of dowry on any public platform. There are regular reports of politicians themselves indulging in ostentatious marriages, which is translated into a silent agreement between the elites/rich and the political class.

CULTURE AND MARKET

A woman is pitted against the culture of trade and commerce, where she herself becomes the commodity to be traded off. The future relationship is not founded on the principles of love and compassion with equality of the sexes, but strategically premised upon the pointers of economic transactions with added costs and benefits. In the midst of such transactions, the commodity i.e. the bride is burnt when not yielding prospective economic benefits. The institution of marriage is questioned in the wake of rising consumerism with ever-growing aspirations and the greed to procure more, when demanding dowry becomes the norm of the society with the marketization of [Indian marriages](#). India's economic boom has resulted in families demanding higher and higher dowry prices, and in many cases the brides' families are unable to comply with these requests. Dowry deaths are an epitome of how patriarchy manifests itself on culture and traditions. The logic of the market works quite unabashedly in the dowry trade, where asking for dowry and accepting dowry in return for protection of the bride is the only rational choice for the bride and her family. Violence generally occurs if the husband or his family are unhappy with the dowry they have received, or if the family of the bride does not comply with further payment requests.



However, contrary to the common belief that the issue of dowry deaths operates in the low income groups is outright erroneous. A matter of clarification is that the practice of dowry and dowry deaths is not limited to any particular class, but extends to all classes and castes. In the book⁵³ /analyse how the elite class pushes the boundaries of acceptance of dowry and systematically perpetuates the idea of ostentatious and pompous weddings. The celebrations are not to celebrate the communion of two souls but a platform to ostentatiously show off the riches and the amount of dowry one has received.

A HOPE

Despite the grim scenario present in our times, we must look for a ray of hope to ignite the spark of our age-old struggles against femicide. I have witnessed a few ripples in relation to the dowry law in India which was changed in the year of 1984 to strengthen women's rights' and enforce greater punishment.

We must remember that the old customary practice will not be overcome overnight to provide justice to victims, that there is no short-term solution, and that patriarchal structures will need a greater push from not just women—but also men and boys to help make our culture more humane and just. We need to educate girls and boys from an early age to stop perpetuating these harmful traditions. A big change that my research highlights in my book (1989) is that some years ago parents advised their married daughters to stay with their husbands and in-laws even when they knew that their daughters would be killed. Now we see a lot of parents supporting their daughters and would rather ask them to return home than be killed.

Tackling femicide is extremely difficult especially given gender discrimination and violence against women, which is so embedded within India's social, cultural and economic structures. Our responses to femicide must be comprehensive and involve the development and implementation of strong legislation, gender-sensitive law enforcement policies and protocols, awareness raising campaigns at the grassroots level, support for individuals and families experiencing violence, and the realisation of women's social, economic and political rights. The impact of femicide on Indian women and society is extreme and current government responses are failing to both protect women from violence and prevent violence from occurring. In spite of many efforts, femicide persists throughout India. There is a lack of commitment to end femicide at the political level, which is evident across India and is preventing substantive action at the legislative, policy and programmatic level. The Indian government must be held to account for its failure to effectively address femicide and ensure that women's rights are upheld. Furthermore, efforts must be made to encourage and support governments to develop effective and comprehensive approaches to femicide.

Fighting femicide requires efforts on all levels of the society to recognize and weed out the problem. We need to develop a culture in which dowry is not tolerated or condoned. However, further steps are required globally and throughout the country to address the prevalence of gender discrimination and the acceptance of violence against women, particularly within homes.

WAYS FORWARD

INTERNATIONALLY

- On 26th November 2012, the Vienna Liaison Office of the Academic Council on United Nations System (ACUNS) held a one-day symposium on fighting femicide, which brought us all to an agreement to get Member States to consider adopting and implementing legislation to criminalise femicide with effective implementation of cases from other experiences of other countries. This also involved adopting a strong legal framework and best practices from other countries for effective institutional delivery.
- International agreement on prosecuting the accused with effective and corrective punishments along with timely delivery of justice, and to take joint Institutional initiatives in dealing with incidences of femicide.
- Recognise that femicide is a global problem in order to deal with the systematic killing of women in different countries. This will ensure more research and awareness on the issue for the states and public.

⁵³ Brides are not for burning' by Dr. Ranjana Kumari in the year 1989, Sangam Press.



- A significant step must be to widely share international knowledge and research in the concerned areas to raise awareness levels, produce evidence and come up with more effective solutions for other countries.
- A vital step would be to encourage other countries to sign a global convention on femicide and prosecute the perpetrators in order to raise a collective voice.

NATIONALLY

- **Addressing Patriarchy**

Femicide cannot be fully addressed without looking at the all-engulfing patriarchy and misogyny that permeates much of Indian society. It is pertinent to take cognisance of an overwhelming culture of patriarchy when developing interventions, so that the campaigns highlight the value of the girl child and women in society. Strong efforts must be made to engage with local communities to develop educational programmes on women's rights. Through these programmes, women must be made aware of their rights and attain education, through which they will have control on their bodies and lives. They will also educate men on the consequences of committing violence and will demonstrate that this behaviour is both socially unacceptable and a breach of the law.

- **The Development and Implementation of Violence against Women Legislation**

Development of a legal framework and legislation is vital to hold the perpetrators accountable for their misdeeds and deter the prospective miscreants to pursue similar lines. This will also address structural discrimination and violence, systematically supported by patriarchy and economy, which women face in their daily lives. However, as we know that legislation is not enough and there have been many efforts to ensure that women-friendly legislation move beyond symbolism and are implemented properly. Monitoring the implementation of this legislation is also important.

- **Sensitisation of Police Personnel**

One of the greatest impediments with the legislation on violence against women is the response of the law enforcement personnel. There is a dire need to gender- sensitize police personnel who come from the same patriarchal structure and fail to address the issue of femicide which lies at the core of violence against women. The insensitivity of the personnel deters women to lodge complaints and raise their voice. The failure of police to respond to reports of violence, including their refusal to register First Information Reports in cases of domestic violence and dowry harassment or dowry death is common and is compounded by widespread harassment of women by police officers when reporting a crime.

- **Increase in Support Services for Women**

There is a dearth of support systems available for women who experience violence in India. This lack of resources leads to forced endurance of perpetual violence. Developing new and improving old support programs can strengthen infrastructures and lead to an increase in resources available to women. An increase in shelter homes and improving medical facilities will also add up to their alternatives and support systems. These infrastructures will ensure that women who wish to leave violent situations have safe alternative accommodation, medical services and socio-support services. Awareness- building programs centred on women's rights are essential in addressing the underlying causes of domestic violence. Currently, only approximately 1 per cent of women report incidents of abuse and many are unaware of their rights or existing legislation that protects them from violence and harassment.

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4.3. POLARIZED IDEOLOGIES: INTERNATIONAL WOMEN'S DAY AND BOKO HARAM

Elisa sita iten, Human Rights Without Frontiers

International Women's Day on 8 March 2015 boasted global celebrations promoting gender equality and women's rights. UN Women emphasized the importance of the 'Beijing Declaration and Platform for Action' and asked governments to address the gaps that still remain in gender equality through the Beijing+20 campaign "Empowering Women, Empowering Humanity: Picture it!". The European Parliament's Committee on Women's Rights and Gender Equality also held an inter-parliamentary committee meeting which focused on the empowerment of women and girls through education. These efforts aim to highlight the stereotypes and inequalities that put women in society in vulnerable positions and are keeping them in poverty. These initiatives serve as a platform to inspire and drive change.

On the 7th of March 2015, Abubakar Shekau, the head of the Nigerian jihadist group Boko Haram, pledged allegiance to ISIS. Experts did not find this news completely surprising and believe the significance of this allegiance may be simply symbolic with no immediate implications.⁵⁴ Yet the timing of Shekau's announcement and International Women's Day coinciding within hours of each other underscore the stark differences between the two movements, polar oppositions in respect to the status of women. Boko Haram, whose name means 'Western Education is Sinful,' strongly condemns all international standards with regard to the rights and protection of women.⁵⁵

BACKGROUND AND IDEOLOGY

Boko Haram was established in 2002 by Muhammed Yusuf with a message to return to a perceived form of primitive Islam, a defining doctrine of Salafism.⁵⁶ Boko Haram uses violence to facilitate its stated aims to oppose 'the secular westernization of Nigeria' and to create an Islamic state, especially in the northern Nigerian states where Muslims are the majority.⁵⁷ Sharia was adopted in the 12 northern Nigeria states around the same time Boko Haram was established. Boko Haram's terrorist activities have been strongly opposed by the Nigerian government, which succeeded in killing Yusuf in 2009.⁵⁸ The current leader, Abubakar Shekau, took power in 2010, leading to a surge in more sophisticated attacks and the deepening of jihadist ideology. Against the backdrop of Boko Haram's expansion, women have been increasingly used tactically to achieve the group's objectives.⁵⁹

WOMEN AND GENDER-BASED VIOLENCE IN BOKO HARAM

Although Sharia does not explicitly call for violence against women, it is often interpreted by fundamentalist movements like Boko Haram to oppose the basic rights of women and to promote restrictive gender roles for both men and women.⁶⁰ Since gender roles are context-based and learned through socialization and because gender-based violence (GBV) is already deeply rooted in Nigerian culture, violence against women found a ready home within the ideological framework of Boko Haram. Christian women and children have become prime targets for Boko Haram as they are also considered to be 'the weakest members of an infidel outcast'.⁶¹ There is no evidence of direct involvement of women in the main operations of Boko Haram. Women are

⁵⁴ Huffpost Live Video via :

http://www.huffingtonpost.com/2015/03/07/boko-haram-isis_n_6823414.html?ir=World&utm_campaign=030715&utm_medium=email&utm_source

=Alert-world&utm_content=FullStory&ncid=newstushpimg00000003 accessed 7 March 2015

⁵⁵ Barkindo, Atta, Tyavkase Gudaku, Benjamin and Katgurum Wesley, Caroline (2013), 'Our Bodies, Their Battleground: Boko Haram and Gender-Based Violence against Christian women and children in North-Eastern Nigeria since 1999', Nigeria's Political Violence Research Network, Working Paper No. 1, Abuja-Nigeria, pp. 10

⁵⁶ Barkindo, Atta, Tyavkase Gudaku, Benjamin and Katgurum Wesley, Caroline (2013), 'Our Bodies, Their Battleground: Boko Haram and Gender-Based Violence against Christian women and children in North-Eastern Nigeria since 1999', Nigeria's Political Violence Research Network, Working Paper No. 1, Abuja-Nigeria, pp. 10

⁵⁷ Zenn and Peason, p. 46

⁵⁸ Ibid

⁵⁹ Ibid

⁶⁰ Zenn and Peason, p. 51; Barkindo, Gudaku and Wesley, p. 9

⁶¹ Barkindo, Gudaku and Wesley, p.16



scarcely found within the ranks of militants. Men may disguise themselves as women in order to penetrate areas that would be more difficult for men to access.

There are also reported instances of women hiding guns and other weapons underneath their clothing and of women being used more frequently as suicide bombers.⁶²

KIDNAPPINGS

In 2012, Shekau first threatened the kidnapping of women and children, specifically those related to government officials, in retaliation for the government's arrest and detention of the wives and children of Boko Haram's leaders. He made good on those threats a year later in 2013 when Boko Haram attacked a police station in Bama, killing 100 and taking 12 women and children hostage. The hostages were eventually exchanged; however, the use of women as pawns by both Boko Haram and the Nigerian government violates international law. It also sets in motion a deadly cycle that continues and is now escalating.⁶³ Reports suggest an increase in instances of GBV perpetrated against Christian women residing in northern Nigeria, including rape, torture and killings.⁶⁴ Women have also been used to lure soldiers into situations where they are vulnerable to attack.

In addition to kidnappings being used as tactical retaliation, they have also served for a punitive purpose - one which strikes at the heart of International Women's Day - to keep women ignorant and subservient. Acknowledging that women are the 'key transmitters of values and beliefs' within their circles of influence, Boko Haram finds it necessary to keep women away from receiving education or practicing any religion outside of Islam.⁶⁵

It is reported that 45% of the women and children killed are Christian. Women are also reported to suffer forced marriages and compulsory conversion to Islam.⁶⁶

Survivors have said that women are raped as a form of 'Jizya,' which makes reference to a type of tax that early Islamic rulers used to demand from their non-Muslim subjects.⁶⁷ The 'tax' in this case is sex. Women, if returned, often feel ashamed when they are reunited with their families, possibly pregnant, infected with sexually transmitted diseases and dishonoured in the eyes of their community.⁶⁸ Unsurprisingly, young girls are frequently the target, as exemplified in the April 2014 mass abduction of 276 Nigerian girls from a government-run boarding school in Chibok in Borno State, northeastern Nigeria. While 57 of them escaped initially, the remaining 219 remain missing.⁶⁹

The group may have become even more extremist in recent months, as seen with the attack on the town of Baga from 3-7 January 2015 where widespread killing took place and approximately 300 women were taken into captivity.⁷⁰

MOVING FORWARD

In the days and weeks following International Women's Day, it is important to remember that these girls and women are being targeted because of their gender, for their pursuit of education and for their desire to exercise their right to self-autonomy, principles which are the foundation of the International Women's Day movement. The timing of these events is an opportunity to discuss how polarized indeed these two

⁶² Zenn and Peason, pp. 49-50

⁶³ Note: Nigeria is signatory to: the United Nations Convention on the Declaration of Human Rights (1948); the United Nations Convention on Elimination of All Forms of Discrimination Against Women (1979); the United Nations Convention on the Rights of the Child (1989); the International Labour Organization (ILO) Convention on Forced Labour and Minimum Wage (1999); the United Nations Optional Protocol to the Convention on the Rights of the Child, especially on the Sales of a Child, Child Prostitution and Child Pornography (2002); and the United Nations Convention Against Transnational Organized Crime (2000). Others include the African Charter on Human Rights (1980); the Protocol on the Rights of Women in Africa (1981); Africa Charter on the Rights and Welfare of the Child (1990), and the Economic Community of West Africa States (ECOWAS); Jungudo, Maryam M. (2014), 'Gender and Human Rights Implications of Women Trafficking in Northern Nigeria', Mediterranean Journal of Social Sciences, Vol 5, No. 26, p.18

⁶⁴ Zenn and Peason, p. 49

⁶⁵ Ibid: 49-50, Open Doors, 25 April 2014 via <https://www.opendoorsusa.org/newsroom/tag-news-post/how-does-boko-haram-justify-kidnap-of-230-nigerian-teenage-girls/> accessed 11 March 2015

⁶⁶ Zenn and Peason, p. 49

⁶⁷ Ibid: p. 51

⁶⁸ Open Doors

⁶⁹ Africa Check, 2014 via <http://africacheck.org/factsheets/factsheet-how-many-schoolgirls-did-boko-haram-abduct-and-how-many-are-still-missing/> accessed 11 March 2015

⁷⁰ Daily Mail, 2015 via <http://www.dailymail.co.uk/news/article-2913338/Boko-Haram-fanatics-abducted-500-women-children-brutal-town-attack-says-eyewitness.html> accessed 11 March 2015



ideologies are. It is also clear how harmful it can be for Nigerian women when the ideals for which the International Women's Day stands are not supported. The Nigerian women who are on the frontline and are suffering at the hands of Boko Haram deserve much more attention from the international community.

4.4. UNDERSTANDING AND PREVENTING BURN AND ACID ATTACKS ON WOMEN

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The United Nations defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm, or the suffering of women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. According to the [United Nations Development Fund for Women \(UNIFEM\)](#), violence against women and girls takes many forms — from the most universally prevalent forms of domestic and sexual violence, to harmful cultural practices, including abuse during pregnancy, honour killings, female foeticide and infanticide, and dowry deaths. Acid or burn attacks on women, which involve pouring acid or kerosene on their faces and bodies and setting them on fire is one of the most severe manifestations of such violence. Many a time, it is spurned lovers who cannot digest the rejection of the girl they desire. This happens to be one of the commonest reasons for acid attacks on unmarried and single women in India. At other times, it may be used to settle scores between two factions. Among married women, acid attacks and setting a women ablaze can be caused because the in-laws are not happy with the dowry the new daughter in law brings. Some other times, married women may be attacked by the in laws or the husband if she is unable to bear a male heir — highly desired in parts of India where a patriarchal mindset rules. The underlying reason for all this is that women are seen as property and objects of men and families and they must not do anything that tarnishes the honour which is intrinsically tied to the actions and inactions of women in a society. Therefore, women must do as men please.

In the Indian subcontinent kerosene is widely used as cooking fuel and concentrated acid is used to sterilize kitchens and bathrooms and hence they are easily and readily available. With just a few rupees, anyone can buy a weapon that can ruin another person's life within seconds (BBC News). Such attacks are commonly used to terrorize and subjugate women and girls in Asia, spanning Afghanistan to Cambodia (Kristof 2008). The attackers are rarely prosecuted and such attacks occur in many parts of the developing world, especially in South Asia including India (Das et al, 2013; Virendra 2009; Dasgupta, 2008; Natarajan, 2007; Natarajan 1995; Chowdhury, 2005; Sharma, 2005; Maghsoudi et al., 2004; Kumar and Tripathi, 2003; Swanson, 2002; Sharma, Dasari, and Sharma, 2002; Swanson 2002; Sweeney and Myers-Spiers, 2000; Faga et al., 2000; Dugger, 2000; Sawhney, 1989; Dasgupta, and Tripathi, 1984). Despite improvements in medical facilities for treating these victims they may end up having to live with severe disfigurement and life-long suffering. The feelings of rejection at all levels of their lives lead many of these women to commit suicide.

The World Health Organization (WHO) estimates that each year there 195,000 deaths result from burns and approximately 10 million serious injuries. A large proportion of these incidents occur in developing countries: in India alone, approximately 200,000 deaths annually are caused by burns. According to Peck (2012) a significant number of burns and deaths from fire are intentional, with self-immolation in households with relatively low per capita income being decidedly more common among women than men in India. These point out towards an underestimated reporting or recording of intentional burns due to the ways in which the reported cases are dealt with by the healthcare and law enforcement systems.

Most of the existing documents on the topic of acid and kerosene burn attacks are media accounts and agency reports that call for government action. However, some recent studies have begun to document the problem in more detail. Sharma's (2005) study of unnatural deaths found that the male to female ratio was 1:3 for burns, 2.6:1 for poisoning and 1.4:1 for other methods. Other studies indicate that about three-quarters of all burn victims are females of whom more than 80 per cent are married (Kumar, and



Tripathi, 2003; Sharma, Dasari, & Sharma, 2002; Rao, 1997; Jayaraman, Ramakrishnan and Davies, 1993; Kumar, 1991). In a recent comprehensive report based on multiple health data sets, Sanghavi, Bhalla and Das (2009) report that the 163,000 fire-related deaths in the records, 106,000 were of women between 15 and 43 years of age. These fire-related deaths were caused by kitchen accidents, self-immolation, and domestic violence (Kumar, and Tripathi, 2003; Sharma, Dasari, & Sharma, 2002; Rao, 1997; Jayaraman, Ramakrishnan and Davies, 1993; Kumar, 1991). A study (Ganesamoni Kate and Sadasivan, 2009) of 177 consecutive adult admissions to a hospital in Southern India for treatment of burn injuries found that the mortality rate in females with burns (71.4 percent) was much higher (46 percent) than that for men. It also found that facial injury increases the risk of death four-fold for women.

There are only a limited number of studies available in which survivors of this type of violence have been interviewed. This is not just because of lack of funding for research, but also because it is hard to gain access to interview the victims and primary research is not as easy to carry out. Many victims are ashamed and may not want to see or talk to anyone other than their doctors or social workers. Many do not want to talk about their traumatic experiences to strangers. Most importantly, many women who have been burned do not survive the attacks or are too disabled to participate in surveys (Garcia-Moreno 2009).

This essay presents the findings of a recent empirical research (Natarajan 2014) that provides a comprehensive approach to improve the theoretical understanding of burn attacks with the ultimate purpose of prevention. The focus on prevention helped to determine the choice of the theoretical framework for this research which is discussed below.

Violence against women is a complex phenomenon that has been explained from a variety of perspectives, including general systems theory, resource theory, exchange or social control theory, and the subculture of violence theory (Jasinski, 2001; Felson, 2002). Feminist scholars have focused on the concept of patriarchy, which evokes images of gender hierarchies, dominance, and power arrangements in society (Hunnicut, 2009). A vast range of criminological theories have generally sought to identify the social and psychological factors giving rise to delinquent or criminal dispositions. Unfortunately, these theories only imply long term solutions to the problem when burn attacks are an everyday occurrence in today's society. Criminological theories which carry more immediate and practical policy implications are the rational choice perspective (Clarke, 1992; Clarke and Felson, 1993) and routine activity theory (Cohen and Felson, 1979; Felson, 1998, Felson and Clarke, 1998). These new groups of criminological theories, namely crime opportunity theories, focus on the immediate context in which specific types of crime occur (Felson and Clarke, 1998). These help identify aspects of the situation that facilitate the act of committing the crime and analyse what can be changed in order to make them less likely to occur (Wortley and Smallbone, 2006). This approach is known as situational crime prevention (Clarke, 2010) which has a clear success record with many different types of crime, including violent crimes. A pertinent example concerns injuries in pub fights in England. Analysis showed that many of these injuries were inflicted with beer glasses that were smashed to serve as weapons (Shepherd 1994). This finding led to a national campaign to replace conventional beer glasses with glasses that shattered into crumbs when broken.

With this criminological backcloth, using three months of hospital registry data (N=768) in 2011-2012 and interviews with 60 women patients in the burns ward of a large city hospital in India, the study indicates that the majority (65%) of intentional burns cases involved women and, among cases with the most severe burns, more women than men died. Furthermore, interviews with women in the burns ward revealed that at least 20 per cent of intentional burns were reported as accidents. This is because the hospital is obliged by law to report any cases of intentional burns to the police for further investigation. Such investigations lead to delays in securing admissions for treatment even when the injuries are serious. Because the women's families do not want to have the police inquiring into their domestic problems, they report suicides and homicides as accidents. Victims concur because they may be afraid of the perpetrators, who are very often their husbands, and they also fear that if their husbands are arrested, their children will be left stranded, as women most often tend to be homemakers with little or no financial independence.

These findings indicate that intentional burns, particularly those suffered by women, constitute a severe public health problem in India as well as in other similar developing countries. This exploratory study found that: 1. the opportunity structures that facilitate intentional and accidental burns are similar, but intentional burns also involve other contributory factors, including husband's alcohol abuse, verbal abuse and physical abuse—all common factors associated with domestic violence at home; 2. kerosene is the main agent



physical because of its easy availability and accessibility in countries such as India, where it is commonly used as fuel for stoves and lamps; 3. most intentional burns are self-inflicted, though some appear to be attempted homicide; 4. most patients with intentional burns are young women in domestic situations; 5. there is a higher mortality and morbidity for women whose upper body is often deeply affected by the burns; 6. because of family pressure to avoid police inquiries, patients sometimes report intentional burns as accidents. The findings suggest that a research program integrating public health and criminological prevention approaches is needed in order to deal with this serious problem.

According to the women interviewed for this study, in many cases these intentional burns, whether homicidal or suicidal, arise from domestic conflicts. This was the case for both main groups of cases identified by the interviews: (1) women from disadvantaged communities who, as a result of feelings of rejection at all levels of their lives, attempted suicide by self-immolation; and (2) women whose family members (often the husband) ignited kerosene on them during domestic disputes. While some of the disputes were related to dowry problems ("bride burning"), a wider array of causes was revealed by the interviews with women, including alcohol abuse by the husband or partner; verbal and physical abuse, quarrels over family matters and money, and the victim's frustration and depression before the incident. Overall, these findings suggest that domestic violence in India, and probably in other similar societies, needs to receive the same level of attention from the authorities that it now receives in many countries elsewhere in the world.

An important footnote to the above is suggested by the finding from the interviews that some of the women who inflict burns on themselves did not intend to kill themselves, but intended only to signal their extreme distress. This finding suggests that the possibility of developing a public information campaign directed at girls and young women should be explored. This initiative should put an emphasis on the terrible consequences of self-inflicted burns.

A further set of important findings also relates to kerosene, which was used in 70 per cent of the present sample of intentional burns cases. Kerosene is widely used as fuel for cooking and heating stoves and lamps in millions of households in India that lack access to electricity. The part played by the widely available kerosene in accidental burns is largely understood. However, interventions aimed at preventing accidental burns might not be sufficient to prevent intentional burns. Hence, additional ways to modify stoves and the way that kerosene is stored in the stoves should be explored.

Finally, the interviews with the patients revealed that due to serious face and upper body disfigurement, and the lack of social support from immediate family and community, several female burn victims—whether of intentional or accidental—were at serious risk of committing suicide upon release from rehabilitation. Unfortunately, few or limited welfare resources exist to continue constant healthcare, counselling and rehabilitation of women who survived acid attacks or burns. As such, there is a great need for collaborative efforts with social service agencies and NGOs to provide counselling and aftercare for burn victims.

In sum the following interventions must be implemented in order to put an end to the gender-related killing of women and girls: integrating public health, gender and criminological perspectives in developing preventive measures that include risk assessment tools for treatment, safe designs for delivering and storing kerosene for domestic use, integration of these designs with global safe-stove initiatives, promoting awareness among young women and girls of the consequences of self-inflicted burns, forced or done at someone else's behest or done in desperation with the intention of committing suicide following domestic torture, be it mental, physical or emotional. Furthermore, publicizing the need for effective policy responses including legislation, education and advocacy in saving lives should be an integral part of any intervention seeking to take action against the gender-related killing of women and girls.

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4.5. “STILL A LONG WAY AHEAD”: CRIMINALIZATION OF FEMICIDE AND ADDRESSING IMPUNITY IN LATIN AMERICA: RECENT DEVELOPMENTS

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INTRODUCTION

On November 13th 2014, instead of going to London for the Miss World pageant, the national beauty queen from Honduras, Maria Jose Alvarado, went missing, along with her sister Sofia. Their bodies were found a few days later in a shallow grave in an almost inaccessible area on the riverbank in the Santa Barbara department. The 19 year-old Miss Honduras turned out to have been a collateral victim of her sister’s murder by the latter’s boyfriend, Plutarco Ruiz. Local media and police officers reported that the man shot the sisters in an “act of passion” inflamed by jealousy, after seeing Sofia dancing with another man at his birthday party.⁷¹

“This is not a crime of passion; this is machismo,” said Salvador Nasrallah, a former presidential candidate and host of the TV show in which María José had modelled. “A lot of girls die this way, but because they’re not famous it doesn’t get any attention and these crimes go unpunished”. It is a sad truth: according to Luis Rubi, former Prosecutor General, in Honduras 95% of femicides go unpunished and 80% are not even investigated.⁷²

Honduras is the country with the highest homicide rate in the world, and second in terms of the homicide

⁷¹ Arce&Cuevas (2014), *HuffingtonPost*. Latino Voices, 19 November, 2014, Tuckman (2014), *The Guardian* 19 November 2014

⁷² *Hondurasprensa*, 23 March 2015



rate for female victims (10.9 per 100,000 women between 2007 and 2012), just below its neighbour, El Salvador (14.4 per 100,000 women), according to the Geneva Declaration on Armed Violence and Development publication.⁷³ Yet the data collected by UN Women in Honduras and the Observatory of the Violence at National Autonomous University of Honduras showed that in 2013, when 636 females were killed, the rate reached 14.6.⁷⁴ Despite the establishment of a specific crime of femicide and taking numerous measures to tackle the violence against women, this trend appears to be on the rise. Between 2005 and 2013 alone, the rate of female homicide victims increased by 263%⁷⁵

Honduras and El Salvador are not alone with an extremely high incidence of female homicide victimization. 12 of the 25 countries worldwide with the highest femicide rates are in Latin America; Central America and Mexico in particular seem extremely hazardous areas for women.⁷⁶

Such a prevalence of femicide in the region has attracted international attention. In the last decade a number of countries have adopted several measures to address the problem. One of these was to criminalize femicide as a separate category of homicide.

This paper draws together, examines and compares the social and political contexts of the creation of legislation on the phenomena of femicide in Latin American countries, and their contribution to its typification and the impact of its enforcement, or absence of enforcement, thus raising urgent and critical concerns that demand to be addressed by and within the social, political, institutional, spiritual and educational frameworks in those countries. A list of the enacted legislation under discussion has been collected at the end of the article, together with full research references, for the convenience of the reader.

CRIMINAL-POLICY RATIONALES

High rates of various forms of violence against women and the lack of public response to the problem led women's right advocates to put pressure on politicians to adopt so-called 'second generation laws' on violence against women in many Latin-American countries, particularly since 2005.⁷⁷ These laws broadened the definitions of violence (beside physical violence other types of violence were criminalized, such as sexual, psychological, economic, institutional, etc.) and extended the concept of violence committed not only in the private sphere, but also in the public one. Furthermore, the laws shifted cases of violence against women from civil to criminal jurisdictions, obliging public authorities to develop and enforce relevant public policies. It also established the State's responsibility for failing to prosecute and punish violence against women, or not providing victims with access to justice, bringing this in line with international human rights' case law. A notable example of that law was adopted in 2006 in Brazil: *Ley 11340* – known as the 'Maria da Penha Law', which was the direct implementation of the Inter-American Human Rights Commission's ruling against Brazil.⁷⁸

Another important step taken by Latin American legislators was to criminalize femicide as a distinct form of homicide in national penal codes. This occurred not only as a consequence of feminist activists' demands, but also following international recommendations (of the CEDAW Committee, or UN Human Rights Commission) endorsing the establishment of a specific crime of femicide in legislations, on the grounds of international human rights obligations.⁷⁹ The framework of international human rights has justified gender-specific laws.⁸⁰ By amending national penal codes and enacting special laws, Latin American countries actually intended to address two problems: firstly, the alarming rates of violence against women, and secondly, the lack of adequate public reaction. Disturbing rates of femicide in the region are widely attributed to a confluence of various factors, such as the strong influence of a patriarchal ideology on sociocultural norms; the

⁷³ Geneva Declaration on Armed Violence Secretariat (2015)

⁷⁴ PrensaUniversitaria, 8 March 2014

⁷⁵ IUDAPAS (2014), p. 1

⁷⁶ Geneva Declaration on Armed Violence (2015), p. 94.

⁷⁷ GaritaVilchez, A.I. (2013), p. 11, 47

⁷⁸ Case 12.051 Maria da Penha v. Brazil, 16 April 2001

⁷⁹ E.g. CEDAW Committee in 2006 recommended to Mexico to define a specific crime of femicide in its penal code. Par. 15, CEDAW/C/MEX/CO/6/CRP.1

Similarly, the Human Rights Committee, in its concluding observations on Mexico in 2010 (par. 8 (b)). CCPR/C/MEX/CO/5

⁸⁰ Toledo Vásquez, P. (2013)



asymmetrical power relations between genders and the machismo culture; poverty, neoliberal economics; the weak rule of law; corruption; internal-conflict or a post-conflict setting; massive urbanization; and, especially in Central America and Mexico, the spread of organized crime, narco-trafficking and 'wars on drugs'.⁸¹ The identity of the prevailing factors is disputed, although it is noteworthy that these regions are generally characterized by very high rates of homicide in comparison with the rest of the world. General levels of violence, lethal violence and lack of security – particularly in public places – are extremely high and the violence affects not only females.⁸² However, the dynamics of female homicide victimization are distinct from those relating to males. Moreover, in comparison with other countries, there is a smaller proportion of victims of intimate femicide among all female victims: many of them are murdered in public spaces by total strangers.⁸³

Another aspect of the phenomenon is the general impunity and lack of judicial redress in relation to crimes perpetrated against women. In fact, this was the starting point for denouncements of femicide by women's rights activists and the victims (survivors of attempted femicides and families of victims).⁸⁴ Impunity for femicide in Ciudad Juarez cases and significant failures of law enforcement agencies have been considered by the Inter-American Court of Human Rights in the 'Cotton Field' judgment⁸⁵ as a human rights violation that governments must address. The court found that the killings of women in Ciudad Juarez were part of a systematic and structural violence, based on gender, economics and social class.

Similarly, this political aspect and States responsibility for the crimes against women are crucial elements in the concept of *feminicidio* - a term coined by Marcela Lagarde, the Mexican feminist.⁸⁶ The term *feminicidio* is political, in the sense that it holds responsible not only the perpetrators, but also the government and the judicial structures that normalize and even perpetuate misogyny: whether through the commission of killings, tolerance of acts of violence, or omission of state responsibility to investigate and punish these acts, and thus ensure the safety of its female citizens.⁸⁷

Laws criminalizing femicide are intended to address misogyny existing within society and the justice system, the vulnerability of women towards violence, unequal power relations and existing impunity for these crimes. Enacting femicide as a crime is aimed at breaking with prevailing social and institutional tolerance and permissiveness towards violence against women. Furthermore, it is believed that this can help make the problem more visible and raise awareness about the necessity of providing women with protection from violence. Finally, the new laws are intended to contribute to the transformation of the widespread, traditional *machista* culture, both in the public and private spheres, which is one of root causes of this violence.

However, above all, the new laws on femicide are justified by the urgent need to change the behaviour and attitudes of law enforcement agencies and judiciary towards violence against women, because they were systematically failing to investigate and punish these crimes in all countries, in a region with alarming rates of femicide. By enacting a new category of crime, the judiciary system, prosecutors and law enforcement agencies, are being given a clear message that gender-related killings of women should be treated with due diligence and cannot be dismissed on any grounds.

It is interesting to observe that the national legislative processes basically reflect a lack of a single, common definition of the concept of femicide, its scope, content and implications, and even the use of the terms femicide/feminicide/gender-related killings of women, which remain the subject of debate among academics, activists, and politicians.⁸⁸ On the one hand, there is a great plurality of definitions and scope of criminalized behaviours. On the other hand, however, one can observe a high contextualization of

⁸¹ See: Van der Graaf, L. (2013); Domozetoska, S., Vodnanska, S., Milicevic, A., Lakner, N., Dekany, E. (2014) Carcedo A. (2010)

⁸² Geneva Declaration Secretariat (2015), p. 92
Global Study on Homicide 2013 (2014), p. 23-24, 32, 50

⁸³ Geneva Declaration, UNO Secretariat (2015), p. 107

⁸⁴ Toledo (2013), p. 21

⁸⁵ Inter-American Court of Human Rights, Case Campo Algodonero (Gonzalez y Otras v. Mexico) from 16 November 2009

⁸⁶ Lagarde y de los Rios, M. (2008) pp. 214-218

⁸⁷ ELLA (2013)

⁸⁸ Latin American Model Protocol for the investigation of gender-related killings of women (femicide/feminicide), ("Panama Protocol") (2014), p. 13



definitions. In each country that decided to establish a crime of femicide, various social and political factors have acted to influence the legislative processes and shape the scope of its related legal provisions.

TIPIFICATION OF FEMICIDE IN LATIN-AMERICAN LEGISLATIONS

The process of criminalization of femicide in Latin America began in 2007. Currently, seventeen countries now have relevant provisions in their bodies of law. The provisions establishing femicide have been included by amending national criminal codes (Argentina, Chile, Colombia, the Dominican Republic, Ecuador, Honduras, Mexico, Peru), or in special laws on prevention and prosecution of violence against women (Bolivia, Costa Rica, El Salvador, Guatemala, Nicaragua, Panama, Venezuela.)

There are several options or techniques which legislators can employ to criminalize gender-related killings of women. Chile⁸⁹ and Peru introduced the crime of femicide by reforming the ‘parricide’ crime already stipulated in the criminal code. Femicide is thus merely a variation of homicide. Argentina, Venezuela⁹⁰ and previously Colombia,⁹¹ have incorporated the legal form of femicide as an aggravating circumstance of the crime of homicide. However, the most common option is to establish a separate and autonomous provision entirely dedicated to femicide, which is the case in all other countries.

The first country to adopt a law enacting femicide was Costa Rica.⁹² The new category of crime was established in a special law on violence against women, which among other crimes, introduced femicide. The legislation enshrines only intimate partner femicide, which means there needs to be a relationship of marriage or a union – declared, or undeclared – between victim and perpetrator. Other gender-related killings of women are not encompassed by the law. Similarly, it has been typified in Chile, Venezuela, and initially in Peru, which later amended the criminal code in 2013 to broaden the concept of killing a woman related to family violence, coercion or sexual harassment, abuse of power, or any form of discrimination against women.⁹³

In the case of Argentina⁹⁴, Peru⁹⁵, Guatemala⁹⁶, El Salvador,⁹⁷ Honduras⁹⁸, Nicaragua⁹⁹, México¹⁰⁰, Panama¹⁰¹, Ecuador¹⁰², Brazil¹⁰³, Bolivia¹⁰⁴, the description of the crime encompasses various types of femicide. Furthermore, in Bolivia, Panama, Nicaragua and Guatemala, the definition of femicide above all examined and described the major spectrum of different types of femicide, including: linkage with the crime of trafficking in human beings, organized crime, sexual crimes, or any form of discrimination against women, and a result of traditional practices, inter alia.

One can perceive that two options exist, in terms of the content of the concept of femicide or the scope of criminalized behaviours, namely: laws that limit the notion of ‘femicide’ to acts committed in the private sphere¹⁰⁵ and laws that broaden the concept to acts committed in the public sphere by strangers. Yet, given the very low proportion of intimate partner femicides among all female homicides¹⁰⁶ in many countries in the region (e.g. 40% in Brazil), it appears warranted and important not to limit the legal definition of femicide to intimate femicides.

⁸⁹ Reforma del Código Penal (artículo 390). Ley No.20480 del 14 de diciembre de 2010

⁹⁰ Ley Orgánica sobre el derecho de las mujeres a una vida libre de violencia (G.O 38668 de 23/4/2007). Article 65

⁹¹ Ley 1257 from 2008, stipulating the femicide in this law as an aggravating circumstance.

⁹² Ley de Penalización de la Violencia Contra las Mujeres. Ley No.8589 del 25 de abril de 2007. Entered into force May 30, 2007

⁹³ Article 108-A of Peruvian Criminal Code

⁹⁴ Ley 26.791, amending the Federal Criminal Code. 2012. Article 80 no 11

⁹⁵ Ley 30068 from 2013, amending the criminal code, including the crime of femicide. Article 107, 108-A

⁹⁶ Article 6 of the Law against femicide and another forms of violence against women (2008)

⁹⁷ Article 45 of the Integral and Special Law for a life free of violence against women, passed in 2010

⁹⁸ Resolution 23-2013, passed in 2013 amending the criminal code (article 118).

⁹⁹ Law 779, passed in 2012. Article 9.

¹⁰⁰ Bill amending the criminal code and different laws. 2012. Article 325.

¹⁰¹ Law 82, passed in 2013. Article 132-A.

¹⁰² New Criminal Code entered into force from 10 August 2014. Article 141.

¹⁰³ Femicide Law 8.305/14, adopted in March 2015

¹⁰⁴ Law 348 passed in 2013. Article 252bis

¹⁰⁵ Lorenzo, Patricia (2012), p. 133

¹⁰⁶ Geneva Declaration Secretariat (2015), p. 107



A great variety of legal formulas exist defining femicide and the scope of criminalized behaviours. The legislation of each country reflects its own social context; however it is easy to observe an evolution of criminalization over the years, revealing a tendency toward the broadening of criminal categories and the scope of behaviours encompassed¹⁰⁷ (e.g. Bolivia, Guatemala, Nicaragua), or to defining the crime in very general terms by referring only to some normative elements, e.g. contempt towards women, hatred for women, misogyny, unequal power relations, discrimination against women, gender (e.g. Ecuador, Brazil.)

Finally, it is worthwhile noting here that some legislators attempted to address the prevailing impunity, or take into account the fact that, relatively speaking, many femicides are committed by military officials or other public servants. Costa Rica, El Salvador, Mexico (albeit, only at the federal level) decided to punish public servants who promote impunity or obstruct the implementation of justice in judicial, administrative, or police investigations related to violence against women¹⁰⁸. Additionally, in El Salvador, when it is perpetrated by a public or municipal employee, a public authority, or an agent, this is defined as an 'aggravating circumstance' of the crime of "feminicide."

The most recent country to enact femicide as a separate crime is Colombia. The bill adopted on July 6th 2015 was named the 'Rosa Elvira Cely Law'¹⁰⁹. In May 2012, Rosa Elvira Cely was found raped, naked, and badly beaten in a park in the Colombian capital, Bogota. The victim had made numerous calls for help to many Colombian emergency lines, the first occasion being at 1.35 a.m., but the police did not find her until 6.25 a.m. Hospital personnel confirmed that she arrived there at 8 a.m. Furthermore, the hospital where she was brought was distant from the crime scene: there was one closer to the place where she had been found. The police and firemen who had eventually found her stated that she said she knew the perpetrator. After four days in intensive care fighting for her life, Rosa Elvira died¹¹⁰.

The crime sparked national outrage, prompting many people to express their anger through social media and street demonstrations in a demand for justice. The attacker turned out to be a classmate of the victim and received a 48-year prison sentence. Apart from enacting femicide as a separate crime, the new legislation establishes longer sentences for perpetrators of physical, psychological and sexual assaults against women because of their gender. A few months before the adoption of the new law, in March 2015, the Colombian Supreme Court ruled for the first time on "feminicide," convicting a man who had killed his wife (although at the time it was still only considered an aggravating circumstance.)

ONGOING CHALLENGES

In spite of progress in the region in relation to the criminalization of femicide and enforcing integral policies on preventing and combatting gender-based violence, many challenges still remain. By far the most significant is that there is little evidence demonstrating any direct impact of these measures on eliminating femicide¹¹¹. It is one challenge to tackle the alarming rates of femicides; it is another to address the judicial system's lack of efficiency in prosecuting cases.

One might say that this legislation as approved will simply become a dead letter, due to the high rates of femicides and their impunity. In Brazil 15 women are killed every day simply due to their being women.¹¹² In Bolivia, one woman dies every three days, yet 97% of reported femicides go unpunished¹¹³. This may be one of the reasons why 60% of women victims of violence do not file complaints against their abusers¹¹⁴: they do not believe the system will help them. However, since Law 348 was approved there has been an actual increase in the number of femicides in the country¹¹⁵: up to March 2015, two perpetrators had been convicted under the new law.¹¹⁶

¹⁰⁷ Panama Protocol (2014), p. 142

¹⁰⁸ Ley de Penalización de la Violencia contra las Mujeres. Artículo 47. Obstaculización del acceso a la justicia.

¹⁰⁹ Ley No. 1761 ("Rosa Elvira Cely Law"), adopted 6 July, 2015

¹¹⁰ El Espectador, 31 May 2012

¹¹¹ ELLA (2013), p. 7

¹¹² UN Women. 16 March 2015

¹¹³ CIDEM Datos de feminicidios y asesinato por inseguridad ciudadana, Años 2009-2014 (2015)

¹¹⁴ López, F. (2014)

¹¹⁵ Martínez, A. (2014)

¹¹⁶ CIDEM. Bolivia se encuentra entre los 4 países de la región que tipificaron el delito de feminicidio



In Argentina, between 2008 and 2014, 1808 women were killed because of gender-based violence.¹¹⁷ The situation does not appear to be improving in Central America either in Guatemala: barely 2% of cases of murdered women are investigated, while in Honduras it is even less than 2%¹¹⁸. Honduras, currently the world's morbid champion in femicides, despite criminalizing femicide in 2013, has so far no convictions for that crime. Impunity for the perpetrators continues to be the rule, rather than an exception.

What is missing is the bridge to eliminating the institutional prejudices and shortcomings that block access to justice and permit impunity. In Latin America it is still common for many public officials – police officers, prosecutors or judges – to be influenced by gender stereotypes. Traditional views on women's role in society often normalize violence against them and tend to attribute the blame to them. This bias obviously does have an impact on judicial procedures¹¹⁹. No wonder, if – as Katherine MacKinnon (1991) put it – the legal system is dominated by members of the same group engaged in the aggression. The practice is formally illegal, but seldom found to be against the law, even if the atrocity is illegal *de jure*, but permitted *de facto*¹²⁰.

One critical development that could bring in change in law enforcement attitudes is the so-called 'Panama Protocol', as a tool to enhance investigation and prosecution of gender-based crimes. Another is to adopt laws that hold all public servants accountable for failing to investigate and convict and/or for the obstruction of justice in crimes of gender-based violence. How difficult it actually is to pass that kind of provision emerges in the case of the Mexico state legislatures, where deputies removed provisions from femicide laws holding accountable agents of the state for inadequate investigation and prosecution of femicides.

The Panama Protocol stresses the importance of bringing a gender perspective into the criminal investigation of all killings of women. Furthermore, it recommends that researchers should always assess the risk factors of lethal violence in cases of gender-based violence. All actions performed by the officials must meet the due diligence standards related to the protection of the woman's life. If the result of this examination allows and asserts that negligence has occurred, or that there was an absence of response regarding the protection of the victim, the competent judicial authorities must initiate criminal or disciplinary investigations into the omissions or negligence committed¹²¹. The first country to incorporate the Protocol into its legislation was Brazil, which also criminalized femicide in March 2015.

CONCLUSIONS

Enacting femicide laws as a particular characteristic of the political development of women's movement in the region¹²² is an important step in the political recognition of the problem. Nonetheless, the laws themselves cannot change a great deal: the pivotal challenge is to make it work and instill a gender-perspective (on which femicide and gender-based violence laws are founded) into the judiciary and law enforcement agencies, given that the real outcry is against the absence of efficiency in enforcement and judicial systems, rather than the absence of specific laws¹²³. The role of the judiciary is fundamental and crucial to this change. We can already observe and applaud one harbinger of a new approach.

In its judgment¹²⁴ of December 2014, the Colombian Constitutional Court ruled that, when it comes to gender-based violence, all judges have to be feminists! In other words, they shall comply with the constitutional principles of equality, non-discrimination and obligation to ensure women's rights, which are precisely the goals of feminism¹²⁵.

Furthermore, in March 2015, just prior to the adoption of a law introducing femicide as an autonomous crime, the Colombian Supreme Court for the first time recognized "feminicide" as a crime. In its ruling, the Court argued that when an act of violence is committed resulting from the subordination of and

¹¹⁷ Civil Association Casa de Encuentro. Report on femicides in Argentina 2014

¹¹⁸ Vica Campesina, 16 December 2014

¹¹⁹ ELLA (2013), p. 2

¹²⁰ MacKinnon, K. (1991), p. 1303

¹²¹ Panama Protocol (2014) p.79

¹²² P. Toledo (2013), p. 18

¹²³ Nicaragua Hoy, 6 May 2014

¹²⁴ Sentencia T-787-14, la Corte Constitucional de Colombia.

¹²⁵ Roa, M. (2015)



discrimination against one of the parties, it cannot be considered a ‘crime of passion.’ Not all murders of women are feminicides, but where women are subjugated by their partners and treated as property, the victim is highly vulnerable to violence and the crime is one of femicide.¹²⁶

At the same time, in March 2015, the Mexican Supreme Court in a landmark decision (059/2015)¹²⁷ ordered the reopening of the case of the death of a young woman and its reinvestigation from a gender perspective. The Court highlighted a general duty of all law enforcement agencies and investigative organs to investigate every violent death of a woman and determine whether or not it was a case of femicide. The judgment can be considered “monumental, in terms of addressing the culture of violence against women in Mexico” as one of the judges had stated¹²⁸.

To sum up, feminist and human rights’ organizations have played a pivotal role in getting femicide onto the public agenda and in lobbying for legal reforms criminalizing femicide. Likewise, the progressive role of the Inter-American Court of Human Rights in its paradigmatic cases, such as the Cotton Field (2009) or Veliz Franco (2014), has defined femicide as a gross violation of human rights, contributed to set standards and protocols, and established specific measures to improve investigative processes. Thereafter, governments have demonstrated political commitment to eradicate femicide as an important social problem¹²⁹. It is now time for law enforcement agencies and the judiciary to adopt a gender perspective in their work and put a stop to institutional impunity for gender crimes.

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Ecuador: Criminal Code entered into force from 10 August 2014 (article 141)

El Salvador: Integral and Special Law for a life free of violence against women, passed in 2010 (articles 45, 46, 47)

¹²⁶ The ruling won a Gold Gavel in Gender Justice Awards, 2015.

Available at: <http://www2.womenslinkworldwide.org/wlw/sitio/caso-interna.php?idcaso=464&idi=en>

¹²⁷ Decision 059/2015 from 25 March 2015, the Supreme Court of Mexico. Available at: <http://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=3060> (Retrieved: 1 August 2015)

¹²⁸ Hernandez, D. (2015)

¹²⁹ ELLA (2013), p. 8



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4.6. FOETICIDE, FEMICIDE AND VIOLENCE AGAINST WOMEN IN GEORGIA

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Dr. Diana Russell was the first academic to define femicide and thus pave the way for its study. According to Russell, femicide is the murdering of a woman or girls by men because they are female (Russell and Harmes 2001, pp. 13-14). The killing of women is said to be perpetrated by men due to hate, contempt, pleasure or a sense of power over women (Caputi and Russell 1993). Overall, data on femicide worldwide are lacking, and countries frequently do not report gender differences in murder statistics (Alvazzi del Frate 2011). For this reason, this author believes that estimates of femicide numbers provided in the media are too low.

The Vienna Declaration (2012) defined femicide as murder of women or girls due to their sex. There are many forms of femicide: i) torture, ii) killing of a woman by her sexual partner, iii) dignity- or honour-based killing, iv) deliberate murder of women in an armed conflict, v) killing because of dowry, vi) sexual orientation, vii) murder of indigenous females, viii) infanticide, ix) selective abortions of female fetuses, x) lethal genital mutilation, xi) killing of alleged witches, xii) types of femicide related to carrying arms, xiii) trafficking, drug dealing or organized crime in general.

According to media reports from the Republic of Georgia, 27 women were killed in the first 11 months of 2014. This brought femicide into the spotlight and caused a public outcry. Headlines such as “Husband Cuts his Wife’s Throat in the Village of Darcheti”; “Husband Kills his Wife in the Village of Dvabzu”; “In Marneuli, a 51 Year Old Man Rapes a 17 Year Old Girl, Cuts her Throat, Burns and Buries Her in his Own Backyard”; “Tragedy in Kobuleti: A Husband Kills his Pregnant Wife and Then Himself” were recurrent.

Despite the broad media coverage of femicide, the Georgian government seems to have paid scarcely any attention to it. The Prime Minister and the Secretary and the Deputy Secretary of the Ministries of Internal Affairs, Justice and Education downplayed the incidents, saying that femicide numbers were about the same as usual, but this time they had not been swept under the carpet (Interpressnews).

However, the situation changed drastically after a murder on October 17, 2014, when a man recently released from prison killed his ex-wife and then committed suicide in front of her students and other professors at Ilia University in Tbilisi, Georgia.

Even so, official statistics published on November 20, 2014, claim an 18 percent reduction in criminal offences year-on-year (IDFI. https://idfi.ge/ge/statistic_of_murders_in_georgia). The statistics from the Ministry of Internal Affairs for January-March 2015 presented similar results. It is very difficult to analyse the problem because detailed information is unavailable and the data that do exist are conflicting. This impedes the development of appropriate policy solutions.

The present analysis is based on events occurring from October 1 to November 7, 2014 and includes the monitoring of media coverage of femicide cases in Georgia. There were TV reports by Rustavi 2 (78), Channel 1 (80), Maestro (85) and Ertulovneba (18), and 34 features published in “Kviris Palitra” and “Alia” newspapers.

In this research, the reports were classified according to the following criteria: time, venue and type of femicide, weapon used, and number of children orphaned. The results showed that three cases involved girls under 17 years of age, 11 involved women aged 17 to 35, and nine involved females aged 40 to 75. Most cases of femicide occurred in the spring and autumn. In five cases, firearms (including shotguns) were used; in 12 cases women were stabbed or axed; and in three instances, the murderers committed suicide after killing the targeted women. Ten cases of femicide were reported in the capital Tbilisi, the others elsewhere in Georgia (in the towns of Ozurgeti, Khoni, Gori, Batumi, Rustavi and in the Kakheti region). Twenty children were orphaned.



Most cases of femicide involved sexual partners. There was also a dignity-based case, when one desperate woman believed she had to commit suicide. (see http://newscafe.ge/homicide/Honor_killing.html) Most femicide cases did not receive in-depth coverage in Georgian media: coverage was mostly based on the accounts of neighbours or third parties who relied on hearsay. The phrases like “they say” or “I’ve been told that” were common. In a number of cases, neighbours pointed out that violence had taken place as a result of alcohol consumption, but once again the issue did not receive appropriate coverage.

STATISTICS

In a perfect world, every country would agree upon a definition of femicide and collect relevant information in a systematic and comprehensive manner. But this is not happening, which leads to a lack of awareness of the problem and inability to develop evidence-based practices and policies. The data collected and reported in Georgia are too limited to answer basic questions with respect to victim characteristics, offender characteristics, relationship between the offender and victim, and the forms of homicide and femicide. Data provided by Ministry of Internal Affairs of Georgia also contradict the alternative data collected by activists or journalists, and this causes mistrust of government institutions. It is important to harmonize the understanding of definitions of intentional homicide and practices that could lead to deaths. Harmonization, standardization and proper calculation of homicide rates (deaths per 100,000 people) are also important to implement and adapt policies and best practices from Europe and elsewhere.

According to a global study on homicide, in 2013 the intentional homicide rate per 100,000 population is 3.4, which puts Georgia in the group of low homicide rate countries. The percentage of male and female intentional homicide victims is 75.7 and 24.3. According to the Ministry of Internal Affairs, 84 people were killed in Georgia in 2014, of which 26 were female.

A recent study on the worldwide occurrence of IPH (intimate partner homicide) has shown that intimate partners commit at least 14 percent of all homicides (39 percent of female homicides and 6 percent of male homicides). In high income countries the share of IPHs among all homicides was even higher, with intimate partners committing at least 41 percent of female homicides and 6 percent of male homicides (Stockl et al.2013).

According to statistics provided by Georgia Ministry of Internal Affairs for the first 10 months in 2014, of the 79 murder cases (Article 108 and 109 of Criminal Code of Georgia), 77 of the perpetrators were men. Twenty-six women were killed. Most killings were cases of intimate partner femicide; eight women were killed by their husbands and three by their own sons. In 2013, of the 104 murder cases, 96 male perpetrators killed 25 women. Nine of these women were killed by their husbands. In 2012, of the 89 murder cases, 77 male perpetrators killed 20 women. Ten women were killed by their husbands.

FOETICIDE : A FORM OF FEMICIDE

Foeticide— sex-selective abortion—is the termination of pregnancy when the birth of a girl child is considered undesirable. This is a just another form of femicide. Foeticide is a vivid illustration of the ongoing abuse against women. In some Asian countries this practice has been occurring for a longer period of time. The process has been dubbed the ‘girl disappearance phenomenon’. According to different reports, the number of disappeared girls worldwide varies. Overall, many more than 100 million women are missing (Sen 1990). Due to their large populations, India and China have the highest numbers. The negative consequences for demographic and social development caused by foeticide and related issues have been widely discussed by scientists and politicians. A global strategy is being developed to solve this problem.

In recent years Georgia, along with its Southern Caucasus neighbours Armenia and Azerbaijan, has faced a similar problem.

On October 3rd, 2011, the Parliamentary Assembly of the Council of Europe (PACE) adopted Resolution 1829 (2011) and Recommendation 1979 (2011) on Prenatal Sex Selection. In its official statement, the European body called on the governments of Georgia, Azerbaijan, Armenia and Albania to face the extreme form of gender violence as it represents a new and urgent challenge (Stamp 2011).



It must be also emphasized that of the three southern Caucasian countries, only Georgia chose to ignore the Council of Europe resolution, while the Azeri and Armenian governments expressed their concerns over the problem and in 2011 initiated specific studies to examine the prevalence of gender-selective abortions and the scope of this social ill.

Georgia is one of 11 countries with a gender imbalance. Official statistics reveal higher than normal inequality between babies born alive (which should not normally exceed 105-106 boys for 100 girls). In Georgia the sex ratio at birth gradually increased from a normal level in 1990 to about 112-114 male births at the beginning of the 21st century.

To classify any given case as a selective abortion, three factors need to be present: the desire to have a baby boy; decrease in overall birth rate and access to abortions due to technological development (Guilmoto 2013).

According to a 2014 World Bank study, turbulent socio-economic development is another important factor. The manifestation of son preference increases when people face severe stresses that force them to make hard choices about choosing the children they wish to raise. This is described in oral histories of the 20th century, when women in Georgia talk about their decisions to abort a child because of unstable political and social conditions (Georgia-a century from within, 2011).

The fertility rate in Georgia was at 1.5, one of the lowest when compared with the global rate (National Statistics Office of Georgia 2012).

The phenomenon has been observed and studied in Georgia by only a limited number of scholars (Badurashvli, Sulaberidze, Tsuladze, Sophie A Hohmann, Cécile A Lefèvre, Michel L Garenne, Christophe Guilmoto), and in the main, their views differ.

Most scientists are sceptical even when attesting to the existence of the phenomenon of sex-selective abortions. Others observe a logical link between these and the widespread patriarchal system, while some think that access to abortion is of overriding importance. Even governments do not have a single clear, cohesive approach.

The Georgian government's total ignorance of selective abortions until 2012 was the indirect result of an inefficient new-born registration process. Some scientists saw this as a major reason for the problem. However, according to others the inefficient registration process was an issue that related to new-borns of both genders and thus could not have affected the balance between genders. The 2002 General Population Census showed that among one-year-olds, there were 110 boys for 100 girls. It is also important to note that in recent years, after the registration process was improved and there were no doubts as to the quality of the data, the inequality index between genders still remained at 109 instead of 105-106, while for the second and third child in the family, the number was as high as 120. To scientists, these data clearly indicate sexual discrimination linked to selective abortion, and also to infanticide—the killing of new-borns (see Guilmoto 2011).

Improved technologies have made it easier to learn the gender of a baby in advance, which has triggered an even more widespread use of selective abortion (Duthe et al. 2012; Mesle et al. 2007). There is a clear link between gender balance and the diagnosis of early pregnancy, as well as a link between gender balance and easy access to abortions. Ultrasound examination makes it possible to identify the gender of a baby and to terminate a pregnancy. There has been an imbalance between genders in Georgia starting in 1994, the year that ultrasonoscopy was introduced in the country.

We should also consider information about access to abortions. According to official data, there are 25,000 to 35,000 abortions each year in Georgia. Statistics show that in 2012 alone, 1,151 fewer girls were born. According to various calculations, selective abortions account for up to 30 percent of the total number of abortions conducted in the country. The women's reproductive health study—GEO RHS-2010—showed that abortion is a major mechanism for controlling birth and that families value baby boys more highly.

Georgian legislation emphasizes that it is legal to terminate pregnancy before 12 weeks. After 12 weeks, abortion is allowed only under particular medical or social circumstances. Consequently, those who wish to have boys are in a hurry to learn the gender during the first 12 weeks of pregnancy. Georgian legislation



prohibits the use of in vitro fertilization to choose the gender of a baby; however, it does not specifically prohibit abortion for gender-selection purposes. In 2014, the Healthcare and Social Issues Parliamentary Committee worked intensively to improve the legislation. The Head of the Committee publicly declared that he supported the prohibition of abortion aimed gender selection.

The first systematic study on gender-based sex selection shows that Georgian families adjust their reproductive strategies to acquire a son: one-third of the population has a third child only because of the absence of a son (see Guilmoto 2014). Many Georgians opted for selective fertility reduction aimed at reducing the number of births without endangering the probability of having a son. According to same analysis, the ratio is decreasing and is now below 110. This level is significantly below that of Azerbaijan and Armenia, and more research is needed to understand the reasons; however, the conclusion from the 2014 Population Situation Analysis (PSA), which bases its logic on alternative estimates and projections calculated by Tsuladze (2014), is that recent fertility in Georgia (since 2008) is substantially higher than what statistical authorities have been officially disseminating. Georgia is thus going through a remarkable demographic recovery that could contribute to lowering the ratio.

In recent years, as the topic of violence against women became a very important issue for the wider public, the sensitivity to sex-selective abortions intensified in Georgia. However, public awareness seems low (see Guilmoto 2014).

ABORTION

There are scientists who refuse to place the phenomenon of sex-selective abortions only in the contexts of a patriarchal social system, gender discrimination and general preference for boys over girls. Their view is that abortion itself is an important trend and widespread in the Caucasian region. For them, other important factors are accessibility to gender-identification methods, and major socio-economic changes in Caucasian countries after the collapse of the Soviet Union, which also affected the desire to have children (Hohmann et al. 2014).

According to data collected by the Caucasian Research and Resources Center, 49 percent of women and 51 percent of men in Georgia believe that it possible to justify abortion as a choice.

During the Soviet years, abortion was considered to be an effective method for controlling the birth rate. By 2000, the Caucasian region had the highest abortion rates in the world (Sedgh et al. 2012).

By 1920, abortion in the Soviet Union was a completely legal procedure; in 1936 it was prohibited, and then became legal again in 1955. During the Second World War, almost 27 million people died in the USSR, which had a huge negative impact on the economy, while also creating a steep deficit in the labour force. The new policy of pro-natalism was introduced in the USSR as a response to the problem. The pro-natalist strategy affected Georgia and other Soviet republics during and after the Second World War. This policy, known as the Family Law, was adopted in 1944 and authored by Nikita Khrushchev, then Secretary of the Central Committee of Ukraine and later Premier of the USSR. The law encouraged every woman of child-bearing age to give birth without necessarily being married. The State used various fees and rewards to make it work effectively. Single mothers were given opportunities to leave their children in state-run children houses, resulting in 8.7 million fatherless children being born between 1945 and 1955. Informal relationships between men and women out of wedlock were very much encouraged. But even under these circumstances, women chose to have abortions, even though it was illegal. As a result, the death rate caused by abortions conducted by non-professional personnel increased, and consequently abortion was once again legalized (Nakachi 2008).

PILL ABORTION. THE HISTORY OF CYTOTEC.

Cytotec, a medicine used for gastrointestinal tract problems, also has the side-effect of tightening the cervical muscles. In several countries it is often used for pregnancy termination. A single pill costs 0.7 Lari in Georgia, the equivalent of USD 0.3. Only a few pills need to be taken to terminate a pregnancy. After analysing the usage of this medicine, it was discovered that for a three-year (2010-2013) period the sales of Cytotec increased 18-fold, reaching 36,000 packages. The import rates of Cytotec in 2014 have slightly decreased in comparison with the previous year. In 2014, Georgia imported 27,595 packages of Cytotec. In 2010, it imported only 200. Although



the abortion rates are decreasing, abortion continues to be one of the key challenges for the Georgia public health system, (PSA 2014).

In this context, the role of Cytotec as a substitute to medical abortion should be investigated further. In 2012, the National Center for Disease Control found one case of a pregnancy-related death in which a woman died in the 18th week of pregnancy because she had taken 10 Cytotec pills (NCDC 2012).

CONCLUSIONS

Femicide is a complex issue that is not recognized in many countries as being distinct from homicide. Incomplete data collection and reporting, the absence of transparency, along with the lack of specialist reporters, leads to either underreporting or sometimes exaggerated and sensational reporting, which increases fear and gender stereotyping among the public.

Complicating this issue is foeticide, which is difficult to estimate, especially when there is lack of awareness. It is important to start discussions about changing cultural attitudes toward son preference, a gender discrimination that produces demographic challenges in Georgia. It is also important to understand the complexity of the topic and to conduct more research on the ground.

The research carried out by ACUNS over five years shows that femicide is an increasing problem. It could be increasing because of conditions of economic hardship, and perhaps it is also the result of better access to statistics on femicide. Better statistics and fewer cover-ups by countries are needed to break the taboo and call femicide by its name. Exchange of best practices and policies between countries is important. Femicide is a global issue and the world should find a solution.

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4.7. HONOR RESTORED WITH THE BLOOD SHED OF LOVED ONES: HONOR KILLING AND BYSTANDER INTERVENTION

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Astha Dhanda¹³⁰

INTRODUCTION:

Honor killing is a global phenomenon.¹³¹ United Nations Population Fund (UNPF) estimates that 5000 women and girls are murdered every year internationally because of honor killing.¹³² Honor based violence is an age old phenomenon prevalent since centuries in India.¹³³ The practice of honor killing occurs in almost all parts of India but it is more frequently reported in the states of Punjab, Haryana, Western Uttar Pradesh, Delhi and Rajasthan.¹³⁴ One in every five cases of honor killing worldwide is reported in India.¹³⁵ However, there is no

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¹³¹ SA Warraich, 'Honour Killings' and the Law in Pakistan. In L. Welchman & S. Hossain (Eds.), 'Honour': Crimes, Paradigms, and Violence against Women (p. 77) (London: Zed Books, 2005)

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accurate data available with governmental or nongovernmental organizations about the magnitude of honor killing.¹³⁶ Academicians and NGOs believe that cases are under reported.¹³⁷ They claim that the figure is four times i.e. around 20,000 cases globally every year.¹³⁸ According to a study conducted in Haryana, honor killing has emerged as a gender specific crime and that in 90% incidents of honor killing, girls are murdered for pride of the family as it is believed that the honor of the family rests in the hands of the women of that house (refer Table 1).¹³⁹

Table 1. Proportion of the Killings of Girls and Boys¹⁴⁰

Gender	Percentage
Killing of Girl Only	52
Killing of Boy Only	10
Killing of Girl and Boy both	38

WHAT IS HONOR KILLING?

Oxford Dictionary of Law Enforcement¹⁴¹ defines Honor Killing as:

“The purposeful pre planned murder, generally of a woman, by or at the command of members of her family stimulated by a perception that she has brought shame on the family”

Honor killing is the result of a complex social structure which governs the relationship between families, social units and communities. Honor killing is the outcome of certain patterns of behaviour of human beings, particularly female member, which is believed to bring dishonor and defiance upon the family, communities and social units within a given society¹⁴². In India, there are various causes which results in honor killing owing to its complex sociocultural patterns¹⁴³. These are intolerance towards pre-marital relationships, inter-caste and inter-religion marriages, widow remarriage, same gotra marriage by females. They are considered dishonorable acts and have been the primary cause of honor killing in northern parts of India.¹⁴⁴

KHAP PANCHAYATS AND HONOR KILLING IN INDIA.

Khap Panchayats are endogamous and unconstitutional bodies prevalent in northern India.¹⁴⁵ They are not an elected representative body. They are caste- based, informal decision making bodies consisting of elderly men of the community.¹⁴⁶ They are primarily from the same lineage or a common genealogy of “supposedly” wise men.¹⁴⁷ They adhere to various marital taboos like prohibition of same gotra marriage, inter- caste marriages, inter- religion marriages and marriages within the same village¹⁴⁸. Any marriage in

opinion/2013/11/honour-killings-india-crying-shame-20131127105910392176.html

¹³⁶ SS Deol, “Honour Killings in Haryana State, India: A Content Analysis,” *International Journal of Criminal Justice Sciences*, 9(2014): 192.

¹³⁷ Deol, “Honour Killings,” 192

R Kiener, “Honour Killings: Can Murders of Women and Girls be Stopped” *Global Researcher* 5(2011): 185.

¹³⁸ Supra Note 3

¹³⁹ Supra Note 6

¹⁴⁰ Supra Note 6

¹⁴¹ The Oxford Dictionary of Law Enforcement, Honour Killing (London: Oxford University Press, 2007)

¹⁴² Supra Note 6

C Rout, “Honour Killing: Descend and Dimensions,” *International Journal of Political Science, Law and International Relations*, 2(2012): 18.

¹⁴³ Supra Note 6

¹⁴⁴ P Baxi, SM Rai and SS Ali, “Legacies of Common Law: ‘crimes of honour’ in India and Pakistan,” *Third World Quarterly* 27 (2006): 1241.

¹⁴⁵ Supra Note 4

¹⁴⁶ PoojaJuyal and ShagunMathur, “Contentious Marriages, Eloping Couples: Gender, Caste and Patriarchy in Northern India,” *Asian Journal of Women’s Studies* 15 (2009): 109-116.

¹⁴⁷ Juyal and Mathur, Contentious Marriages, 109-116

¹⁴⁸ Supra Note 16



violation of these rules is met with stringent punishments like annulling the marriage, declaring the couple as siblings, dissolving their marital tie, religious expiation, divorce.¹⁴⁹ Violence and killing of the couple is the worst articulation of violence by these panchayats.¹⁵⁰ Few dare to oppose the councils publicly as they enjoy social sanction and political patronage.¹⁵¹

UNDERSTANDING BYSTANDER'S ROLE IN HONOR KILLING IN INDIA

On the unfateful night of 16th December, 2012, a 23-year old woman was brutally gangraped by 6 men in a moving bus.¹⁵² The girl was travelling with a male friend, who was also beaten and attacked by the rapists. He said in an interview, *"We tried to stop passersby. Several auto rickshaws, cars and bikes slowed down but no-one stopped for about 25 minutes."*¹⁵³

*In July, 2012, a 20-year-old girl was molested outside a bar in Guwahati for a half an hour in full public view.*¹⁵⁴ *The incident took the country by shock. This phenomenon of public apathy and insensitivity is called Bystander effect. The apparent apathy in India is a representation of the breakdown of traditional morals and values in Indian culture.*¹⁵⁵ However, bystanders in rape, domestic violence or other crime against women do not support the occurrence and incidence of crime even if they are reluctant to help. On the other hand, bystanders in honour killing are placing a bigger challenge for the society.

Here, the whole community not only witness the crime, but they are actively engaged in barbaric acts against the couples who have violated the community defined marital rules. Surprisingly, bystanders here are extended to community, police, legislators and politicians. For instance, in June, 2007 in Manoj-Babli Honor Killing case, Khap Panchayat passed a decree which annulled their same gotra marriage. Thereby, the local councils declared the couple as siblings.¹⁵⁶ Police registered a FIR (First Information Report) against Manoj for kidnapping Babli. After the duo clarified in the court on 15th June, 2007 that they had married each other in conformity with the law, they were sanctioned immediate police protection by the court.¹⁵⁷ However, police later deserted them, following which they were abducted and murdered by Babli's relatives.¹⁵⁸ This case is a clear illustration of not only passive apathy of the police, but rather playing an active role in supporting honor based killing in India. Hence, the police were the active bystanders who supported the execution of the couple by abandoning their duty to protect the couple. Honor killings have redefined the definition of bystanders from mere passive observer to a crime to active engagement in committing the crime. This calls for an intervention mechanism where not only the offenders or culprits but also bystanders are held accountable and responsible for crime, especially, when bystanders are the guardians of the law and enforcement of the country.

LEGISLATIVE PROVISIONS IN INDIA

There are no clear laws prohibiting honor killing in India. The Indian Penal Code states murder as a crime but no specific condition or punishment has been mentioned against honor killing. From time to time news reports of incidences of murder of young girls and boys by their parents or family in the name of honor instigated a suggestion for legislative reform. In August 2012 the Law Commission of India in its report on Prevention of Interference with the Freedom of Matrimonial Alliances (in the name of honor and tradition): A suggested legal framework proposed the incorporation of a separate legislation for killings in the name of honor.¹⁵⁹ Despite

¹⁴⁹ B Kuppaswamy, Social Change in India (Delhi: Konark Publications, 1989)

¹⁵⁰ Kuppaswamy, Social Change

¹⁵¹ ChanderSutaDogra, "Jeans, Mobiles & Khap Panchayats," The Hindu, October 19, 2014, <http://www.thehindu.com/news/national/jeans-mobiles-and-khap-panchayats/article5248924.ece>

¹⁵² RajanBhagat, "Male friend of Delhi gang rape victim slams police, public apathy," The Economic Times, January 5, 2013 http://articles.economictimes.indiatimes.com/2013-01-05/news/36161835_1_bus-male-friend-delhi-police

¹⁵³ Bhagat, Delhi gang rape

¹⁵⁴ SukhadaTatke, "Bystander Effect typifies Indian psyche," The Times of India, July 15, 2012 <http://timesofindia.indiatimes.com/city/mumbai/Bystander-effect-typifies-Indian-psyche/articleshow/14924402.cms>

¹⁵⁵ RupaSupramanya, "Delhi Rape: Why did no one help?" The Wall Street Journal, January 5, 2013 <http://blogs.wsj.com/indiarealtime/2013/01/05/delhi-rape-why-did-no-one-help/>

¹⁵⁶ MandakiniGahlot, "Six to be sentenced for 'honour killing,'" The Indian Express, 29 March, 2010 <http://archive.indianexpress.com/news/six-to-be-sentenced-today-for-honour-killing/596849/>

GeetanjaliGayatri, "A love story with a full stop," The Tribune, 30 March, 2010 <http://www.tribuneindia.com/2010/20100331/khapdiktat.htm#3>

¹⁵⁷ Gayatri, "A love story"

¹⁵⁸ Gayatri, "A love story"

¹⁵⁹ "Prevention of Interference with the Freedom of Matrimonial Alliances (in the Name of Honour and Tradition): A Suggested Legal Framework." Law Commission of India, August 2012. <http://lawcommissionofindia.nic.in/reports/>



the suggestions of the Law Commission, no separate legislation have been passed by the Parliament. This is primarily due to the political pressure from the panchayats (local governing bodies in villages) which support such killings. Further, lack of evidence is the problem in such cases because these are not ordinary murders but murders that are sanctioned by the orthodox mindset of the people.

The existence of the inhumane act of honor killing is supported by both active and passive bystanders of the community. A women's right group, Shakti Vahini has reported that most of the perpetrators in the honor killing get away with the impunity for the lack of evidence.¹⁶⁰ The lack of evidence is propagated by perpetual silence of the village and the community against the perpetrators. Thereby, giving their approval and consensus on cold-blooded murder in the name of honor.¹⁶¹ There is an urgent need for a legislation that punishes not only those who murder, but also those who act as bystanders and mute spectators and are directly or indirectly involved in the murder.¹⁶² Silence of the community members is equally fatal for couples and a major barrier in eradicating honor killing from that community. Academicians and scholars all over the world have described that *Bystander effect* describes Indian psyche, which has led to emergence of a culture of rape and violence against women in India.¹⁶³ A crucial missing link in India compared to many Western countries is the absence of a Good Samaritan Law. Introduction of Good Samaritan Law in India will reduce the bystander effect in India. Bystander is not a culture hardwired in Indian culture.¹⁶⁴ It results from lack of a strong legislation for people. This results in people's reluctance in offering help due to cumbersome litigation and criminal prosecution.¹⁶⁵ There is a need for a law that protects those who help or provide assistance to others (victims) in need from frivolous civil litigation or criminal prosecution except in cases of gross negligence.¹⁶⁶

COMMUNITY BASED INITIATIVES

A community initiative that targets the bystanders both active and passive is more likely to bring about change against honor killing. One classic example of community based initiative is "Wake Up Campaign" against honor killing launched by Khalida Brohi in Karachi, Pakistan.¹⁶⁷ The campaign targeted women empowerment. To achieve the target, they organized rallies and strikes to facilitate government policy change. But the campaign failed miserably.¹⁶⁸ Two reasons were identified for the broken campaign: First, the campaign stood up against the core values of the people and challenged their code of honor, which was perceived as Un-Islamic by the community. Second, the campaign was surfacing at the superficial level, changing the governmental laws and policies without engaging the stakeholders in the process i.e. the women folk.¹⁶⁹ This time, they re-launched the campaign with a project called 'Sughar' (*Sughar means skilled and confident women*).¹⁷⁰ Different forms of life skills were imparted for the women like: traditional embroidery, enterprise development, basic education about their rights, leadership abilities.¹⁷¹ Instead of opting for a top-down approach, they adopted bottom up approach to deal with the issue. This promoted women empowerment, awareness about Islam and their rights. Subsequently, the community experienced a major decline in honor killing, child marriage, domestic violence and other-gender related crimes.¹⁷² This initiative is a classic example of a bystander intervention and community specific prevention strategy.¹⁷³

[report242.pdf](#)

¹⁶⁰ Geetanjali Gayatri, "'Till 'honour do them part'", The Tribune, 30th September, 2013, available at <http://www.tribuneindia.com/2013/20130929/kal.htm>

¹⁶¹ Gayatri, "Till 'honour'"

¹⁶² Gayatri, "Till 'honour'"

¹⁶³ Supra Note 24

Heather Dande, "Too many Bystanders to India's culture of rape," The Boston Globe, April 10, 2015 <https://www.bostonglobe.com/opinion/2015/04/10/too-many-bystanders-india-culture-rape/cYLaa0CiWauM1y4dkKKwGO/story.html>

¹⁶⁴ Supra Note 25

¹⁶⁵ Gahlot, "Six to be"

¹⁶⁶ XU Guo-dong, "A comparative study of the Acts of Good Samaritan of various countries," Hebei Law Science, 7 (2006):001

¹⁶⁷ Khalida Brohi, "How I work to protect Women from Honor Killings," TED Global, October, 2014 https://www.ted.com/talks/khalida_brohi_how_i_work_to_protect_women_from_honor_killings

¹⁶⁸ Brohi, "How I work"

¹⁶⁹ Brohi, "How I work"

¹⁷⁰ Brohi, "How I work"

¹⁷¹ Brohi, "How I work"

¹⁷² Brohi, "How I work"

¹⁷³ Brohi, "How I work"



Another approach is creating a community support system of people who are against honor killing and are willing to take a stand to protect couples who go against the wishes of their families and community. For example, “Love Commandos”, a non-profit organization, started by a journalist Sanjoy Sachdev is a sanctuary for many young couples.¹⁷⁴ Love Commandos, since its inception in 2010 has helped thousands of young couples and prevented many deaths as result of honor killing.¹⁷⁵ Love Commandos provides shelter to young couples who have dared to select life partners of their choice against the wishes of their family and community.¹⁷⁶ In addition to refuge, young couples receive legal advice and are rehabilitated so that they can start a life together.¹⁷⁷ In addition to having seven shelter homes, the NGO has a network of 300 couples who provide a short stay sanctuary for young couples fleeing their family’s wrath and fear for their lives.¹⁷⁸ Unfortunately, Love Commandos have not been always successful in saving all lives that seek shelter. The couple, Abhishek Seth and Bhawna Yadav belonged to different castes. They were in love and dared to marry secretly against the family’s wishes, eloped and sought refuge with Love Commandos.¹⁷⁹ Bhawna’s family convinced the couple to send Bhawna back to her family. They assured the couple about celebrating their marriage. Unaware Bhawna went back to the family without having a true idea of their intention. She was ruthlessly killed and her body was burned by her parents and uncle.¹⁸⁰

Sometimes family conspire to lure the couples back and most often it’s the girl who is executed by her family. It is hard to believe that parents who nurture their children throughout their lives, later, kill their children, primarily their daughters, in the name of honor. This raises the most important and critical question: Are the parents victims too? Can the fear of being ostracized and abandoned by the community victimize the family? Can the victimization lead the families to suppress their desire to nurture and support their children and instead be consumed by their thirst for blood and vengeance of their children? Jagmati Sangwan, president, Haryana chapter of the All India Democratic Women’s Organisation (AIDWA), says,

“Parents are threatened of complete social boycott and ban on hukka-paani (social and commercial relations). A society’s collective refusal to engage in the normal social and commercial relations that make life palatable and possible for an individual makes people so uncomfortable that they decide to eliminate themselves or their children or voluntarily leave the society.”¹⁸¹

Consequently, honor killings are prevalent in those states in India where adherence to patriarchal and societal norms is believed to be the key to the survival of their family and community culture. Any resistance is curbed to maintain the unity and solidarity of the community¹⁸². Therefore, such communities are resistant to changing marital and societal norms and are more accepting and tolerant towards violence against women.

CONCLUSION

Sociologists explain the prevalence and existence of honor killing as a lethal response to resist rapid changes in the community¹⁸³. Accordingly, these communities tend to have poor attitude towards a woman’s social standing and right for decision-making pertaining to the self. The power of the community and the family overpowers the right of the individual, particularly women who are considered the subservient gender. In a controversial bid to raise voices against female foeticide and honor killing in the Jat community, the

¹⁷⁴ AFP, New Delhi, “Here Comes Love Commandos: NGO Provides Couples with Shelter, Help,” Hindustan Times, February 9, 2015, <http://www.hindustantimes.com/india-news/here-comes-the-love-commandos-delhi-ngo-provides-couples-with-shelter-help/article1-1314837.aspx>

¹⁷⁵ AFP, New Delhi, “Here comes”

¹⁷⁶ AFP, New Delhi, “Here comes”

¹⁷⁷ AFP, New Delhi, “Here comes”

¹⁷⁸ AFP, New Delhi, “Here comes”

¹⁷⁹ AFP, New Delhi, “Here comes”

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¹⁸¹ Anwar Tarique, “Honour Killing in Delhi: What turns loving parents into cold blooded murderers,” First Post, 23rd November, 2013, available at <http://www.firstpost.com/india/honour-killing-in-delhi-what-turns-loving-parents-into-cold-blooded-murderers-1817411.html>

¹⁸² M.C. Pradhan, “The Jats of Northern India: Their Traditional Political System-II,” Economic Weekly 17(1965): 1855-1864.

¹⁸³ AnandKirti, Prateek Kumar, RachnaYadav, “The Face of Honour Based Crimes: Global Concerns and Solutions,” International Journal of Criminal Justice Sciences 6(2011): 343-357. <http://www.sascv.org/ijcjs/pdfs/kirtitajicjs2011i%26iind.pdf>



current Prime Minister, Mr. Narendra Modi tried to extract a promise and support in eradicating female foeticide¹⁸⁴. In exchange the Prime Minister promised supporting the community in its fight against the Supreme Court's decision to remove OBC (Other Backward Class) quota for their community, thereby depriving them of the privileges of the OBC quota.¹⁸⁵ If the guardians or custodians of a community imbibe change, then transformation at the grassroot level is a possibility. Community initiated and supported preventive measures are essential for longstanding changes.

It is imperative to address the deeply entrenched socio cultural fabric of the society which encourage patriarchal order and conservative attitudes towards gender, morality and caste.¹⁸⁶ There is a dire need to introduce educational and awareness programs which can act as change agents in the mindset and attitude of people and the community as a whole. This can create responsible and informed bystanders and could be a turning point in ending honor killing when supported by community leaders or custodians of the culture in the community. In this direction, the recent news published in an article in Hindustan Times claims that Sarv Jatiya Khap Mahapanchayat (all castes' council) of 150 Khaps in Haryana have taken a solemn pledge to put an end to honor killing in the community¹⁸⁷. In addition, the Khap panchayat would socially boycott families in the community that accept dowry and engage in honor killing. If this resolution is true and successfully implemented by the Khap Panchayat community, this pledge could be the beginning of a new social change and can put an end to honor killing in the Khap community; a community that had gained ill-fame due its favor and support of the heinous crime of honor killing.

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¹⁸⁵ Mathew and Iyer, "Promise to end"

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4.8. PREVENTING FEMICIDE IN INDIA: VALUING & SAFEGUARDING THE GIRL CHILD & WOMEN

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A prevalent form of violence against women worldwide and in India is *Femicide*, perpetuated through a wide range of acts such as infanticide, foeticide, trafficking, honor killing, dowry deaths, non-intimate partner violence, sexual and domestic violence. World Health Organization describes “femicide, as the intentional violence against women because of their gender¹⁸⁹. The National Crime Record Bureau (NCRB), statistics from the years 2009-2014 report 65.8 % increase in crimes against women in India¹⁹⁰; this increase in the span of five years is significant¹⁹¹. According to International Labor Organization (ILO) and Oxfam, due to high incidences of sexual harassment, India ranks second lowest in G20 economies in women’s participation in the workforce.¹⁹²

India has a shocking gender imbalance too! The sex ratio in 2011 is 943 females per 1000 males¹⁹³, not a great increase from 933 as per 2001 census report despite prevention efforts being active throughout the country for decades. Telegraph cites statistics and analysis from a report by the United Nations Department of Economic and Social Welfare.¹⁹⁴ This report states that India is the most dangerous place in the world to be born for a girl and females are twice as likely to die before reaching the age of five.¹⁹⁵ Though preventive measures such as awareness programs, governmental schemes and local community initiatives have triggered some changes in the mindset of people, more needs to be done in this area.

In this paper we will review and deconstruct the multi-dimensional preventive steps taken against femicide in the Indian cultural context and their effectiveness. The multi-level reforms discussed below include selected (based on popularity and success) laws, government schemes, and community initiatives that have contributed to the incremental change.

LEGISLATIVE FRAMEWORK

Laws in a country play a significant role in preventing social evils. The Indian parliament has framed laws from time to time to protect and safeguard women’s interests. Even though these laws have existed for decades now, the cases of femicide have not significantly gone down rather their reporting have gone up, which in itself can be a mark of success. The dowry prohibition laws, the prenatal sex determination laws, and domestic violence act are deliberated upon in this section to understand their influence on femicide in India. The first law enacted to counter femicide is section 498A of the Indian Penal Code, 1860.¹⁹⁶ It

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¹⁹⁵ Ibid Nelson, “India ‘most dangerous place”

¹⁹⁶ Section 498A, Indian Penal Code, 1860: Husband or relative of husband of a woman subjecting her to cruelty.—Whoever,

recognizes cruelty against women and harassing women as a crime.¹⁹⁷ This created a background for future laws for women such as the Dowry Prohibition Act of 1961. In India because of the system of arranged marriage, the girl's family customarily gives the boy's family money and other valuables, this is known as dowry.¹⁹⁸ Dowry system has been followed in India as a tradition for over a century.¹⁹⁹ Dowry customs ended up being misused by the husband's family to earn more money and cases of bride burning were reported when a bride failed to bring the amount asked for in the wedding.²⁰⁰ Further section 304(b)²⁰¹ talks about dowry deaths. It says that if a married woman dies because of unexplained burns or under uncertain circumstances, the case is to be investigated under section 304(b)²⁰² and if the death has been proved to be caused by the husband or his family and the motive is dowry, the punishment is a minimum of seven years of imprisonment.²⁰³ Following these the Dowry Prohibition Act was enacted in 1961 with rules to maintain lists of gifts given to the bride and bridegroom during the wedding and prohibits taking and giving of dowry.²⁰⁴ The fact that dowry deaths take place in India shows that even though India has ratified the International Covenant on Civil and Political Rights (ICCPR)²⁰⁵, it violates the right to life as mentioned in Article 6(1)²⁰⁶ and protected by Article 2.²⁰⁷

Furthermore, dowry customs also perpetuate preference for a boy child, which not only affects the sex ratio but also the status of women who give birth to female children. They are ill-treated by the family and the demand for boy child is pressing. To counter domestic violence against women on pretext of demand for boy child, dowry, etc. Domestic Violence Act, 2005²⁰⁸ was enacted. Under this act, women living in any household and being abused are covered.²⁰⁹ It has provisions for immediate relief in case of domestic violence against women by arresting the persons responsible for it and giving the woman financial assistance.²¹⁰ This act is a fresh change compared to other laws in India as it includes economic, verbal and emotional abuse as well as physical and sexual abuse of women.²¹¹ But at the same time implementation, speedy trial and awareness about the act is a problem. To make dowry laws an effective preventive measure the state must implement them strictly, and raise awareness amongst women of their legal rights and amongst the family members about the need to value women²¹². It is important to monitor the role of doctors, police and courts in cases of feticide, dowry violence, and forced abortions.²¹³ In cases of honor killing where the police have failed to offer protection, support and justice to victims, monitoring

being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, “cruelty” means— (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

¹⁹⁷ *ibid* Section 498A

¹⁹⁸ Carlson-Whitley, Angela K. “Dowry Death: A Violation of the Right to Life Under Article Six of the International Covenant on Civil and Political Rights.” *University of Puget Sound Law Review* 17 (1994 1993): 637.

¹⁹⁹ *ibid* Angela, “Dowry Death”

²⁰⁰ *ibid* Angela, “Dowry Death”

²⁰¹ Section 304(b), *Indian Penal Code*, 1860: Dowry death.— (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death. Explanation.—For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961). (2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

²⁰² *ibid* Section 304(b), *Indian Penal Code*

²⁰³ *ibid* Section 304(b), *Indian Penal Code*

²⁰⁴ *The Protection of Women From Domestic Violence Act*, 2005.

²⁰⁵ *Supra* note 10.

²⁰⁶ *ibid* Angela, “Dowry Death”

²⁰⁷ *ibid* Angela, “Dowry Death”

²⁰⁸ *Domestic Violence Act*, 2005. <http://wcd.nic.in/wdvact.pdf>.

²⁰⁹ *ibid* *Domestic Violence Act*, 2005

²¹⁰ *ibid* *Domestic Violence Act*, 2005

²¹¹ *ibid* *Domestic Violence Act*, 2005

²¹² Rita Banerjee, “Strategies to tackle femicide in India,” *The Symposium on Femicide*, Vienna, November 26, 2012, <http://cpcjalliance.org/strategies-to-tackle-femicides-in-india/>

²¹³ *ibid* Banerjee, “Strategies to Tackle”



police and courts can play an imminent role in countering femicide.²¹⁴ Consequently, these systems must work together and in tandem to counter the ill treatment of women in the Indian cultural context.

Government Schemes

The child sex ratio²¹⁵ (CSR) was 918 girls per 1000 boys and showed an all-time low in 2011.²¹⁶ These numbers are indicative of the fact that sex selective abortion and female infanticide are a prominent problem in India.²¹⁷ Especially in the northern states of the country there is high preference for boy child because of which female feticide and infanticide are prevalent.²¹⁸ The Pre Natal diagnostic techniques (prohibition of sex selection) Act, 1995 (PNDT act hereinafter) prohibits abortion based on sex of the fetus.²¹⁹ After the commencement of this act the sex ratio seems to be improving overall but a strong preference for boy child is still seen in states of Haryana²²⁰ and Rajasthan.²²¹

In 2009 an initiative called the Nanda Devi Girl Child Scheme was implemented and directed towards families living below the poverty line in the northern state of Uttarakhand²²². In such families for a girl born after January 2009, this government scheme is oriented towards cognitive changes through awareness and behavioural changes through monetary incentive of 105 dollars for rearing and raising the girl child. This amount of 105 dollars along with the interest can only be retrieved when the girl finishes high school and is of 18 years of age²²³. This initiative somewhat addresses the economic need of the population and gradually influences the desire for a girl child versus a boy child.

The Bhartiya Janta Dal government (ruling government in 2015) came up with the Beti bachao beti Padhao (save daughters teach daughters) scheme in 2015.²²⁴ The aim of this scheme is to specifically improve the CSR in 100 districts.²²⁵ Another objective of the scheme is to prevent gender selective elimination through targeted intervention focusing on implementation of all existing laws, including the PNDT Act.²²⁶ It has been designed to promote girl child education and improve the condition of female infants by providing adequate nutrition.²²⁷ The implementation of this scheme is to be done through community mobilization and each district where the CSR increases by ten points, would be give one crore rupees by the central government.²²⁸ All previous schemes have failed to provide the results that they aimed for, therefore this scheme has been developed. The government seems hopeful of this scheme as it targets previously existing laws and their implementation. The economic incentive for the village for the first time is so high and the motivation is expected to work. If this scheme works in these states, it can be implemented pan India.

COMMUNITY INITIATIVES

Community initiatives, a form of prevention effort that has gained popularity in places that had the lowest female to male sex ratio. They are localized and target change in the mindset of the community. They have been successful in not only emphasizing the need to value the girl child, but also empowering women. One such localized community initiative that changed the mindset of the community members and brought about systemic changes and growth of the community was started in Piplantri, a rural village in Rajasthan²²⁹.

214 Geetanjali Gayatri, "A love story with a full stop", *Tribune News Service*, March 30, 2010, <http://www.tribuneindia.com/2010/20100331/khapdiktat.htm#3>

215 Child Sex Ratio is defined as number of girls per 1000 of boys between 0-6 years of age.

216 Beti Bachao, Beti Padhao Scheme, Government of India, 2015, Available at: <http://wcd.nic.in/BBBPscheme/launch/workshop/main.htm>

217 *ibid* Beti Bachao, Beti Padhao Scheme

218 Tandon, Sneha Lata, and Renu Sharma. "Female Foeticide and Infanticide in India: An Analysis of Crimes against Girl Children." *International Journal of Criminal Justice Sciences* 1, no. 1 (n.d.).

219 *ibid* Tandon and Sharma, "Female Foeticide"

220 *Supra* note 4

221 *ibid* "Gender Composition"

222 Nitin Jugran Bahuguna, "India: Missing girls is about Femicide," *IPS Correspondents*, September 18, 2011, <http://www.ipsnews.net/2011/09/india-isquomissing-girls-is-about-femicidersquo/>

223 *ibid* Bahuguna, "India: Missing Girls"

224 *Supra* note 28

225 *ibid* Beti Bachao, Beti Padhao Scheme

226 *ibid* Beti Bachao, Beti Padhao Scheme

227 *ibid* Beti Bachao, Beti Padhao Scheme

228 *ibid* Beti Bachao, Beti Padhao Scheme

229 Mahim Pratap Singh, "A village that plants 111 trees for every girl born in Rajasthan," *The Hindu*, April 13, 2013,



This initiative focused on saving girl children was started seven years ago. The village panchayat (local self-government) encouraged the villagers to plant 111 trees for every girl born in the village²³⁰ and the community was responsible for nurturing the planted trees (e.g., neem, shesham, mango, and amla)²³¹. To prevent plants from getting infected with insects the villages planted aloe vera. The plantations provided a green village, generated income from plant products and provided employment to the village women²³². Further systemic changes were achieved by including the families that were reluctant to have girl child were encouraged with a new initiative in Piplantri that ensured financial security and prevention of child marriage for a girl born into the village.²³³ When a girl is born in such a family, the father had to pay Rs 10, 000 and the village residents contributed Rs 21, 000; together the sum of Rs 31, 000 was made into a fixed deposit for a term of 20 years²³⁴. In addition, such reluctant parents signed an affidavit that they will not get their daughter married before the legal age for marriage in India. On an average 60 girl children were born every year in this village and the program has been successful in saving girls born in the village for the past 7 years²³⁵. This initiative spiraled several other changes in the community, such as increased female birth, jobs for women, and overall growth of the community (such as better roads, education, sanitation, health care and electricity in every household of the village)²³⁶. This community initiative brought fame and recognition for the village²³⁷. Few community initiatives have achieved success as the one in Rajasthan.

Another remarkable step towards curbing female foeticide was undertaken by a small district in Haryana, Jhajjar and Jhind.²³⁸ The district administration made it mandatory to activate tracking device in the ultrasound labs by all the doctors in the district. This helped Chief Medical Officer (CMO) and administration to monitor and track the machines to curb use of sex determination test. It has been reported that this has enabled a remarkable recovery in sex ratio in Jhajjar.

Another community supported initiative against femicide by a village panchayat in Haryana is the “selfie with your daughter” contest²³⁹. This program uses unique technology (WhatsApp and social media) for a noble cause in a state that is notorious for its dismal sex ratio²⁴⁰ and misuse of technology in sex determination and forced abortion cases.²⁴¹ The campaign is catching waves and spreading awareness regarding prevention of foeticide and uplifting the social standing of women²⁴². This cause has received not only state wise but nationwide recognition due to the current Prime Minister, Mr. Narendra Modi’s support of this social media campaign²⁴³. Another social media campaign called 50 million Missing Campaign by Rita Banerjee renders voice in this direction since 2006 about missing girls. This campaign spreads awareness and works at grass root levels to end femicide.²⁴⁴

In crimes against women, NCRB 2014 reports 30957 abduction and kidnappings of women for marriage and 4447 kidnapping for illicit intercourse.²⁴⁵ The statistics point to an emerging social crisis that needs

<http://www.thehindu.com/news/national/other-states/a-village-that-plants-111-trees-for-every-girl-born-in-rajasthan/article4606735.ece>

²³⁰ ibid Singh, “A village that plants”

²³¹ ibid Singh, “A village that plants”

²³² ibid Singh, “A village that plants”

²³³ ibid Singh, “A village that plants”

²³⁴ ibid Singh, “A village that plants”

²³⁵ ibid Singh, “A village that plants”

²³⁶ “Piplantri,” <http://www.piplantri.com/achievements.html>

²³⁷ ibid “Piplantri”

²³⁸ Gaurav Vivek Bhatnagar, “A simple device to curb female foeticide,” *The Hindu*, January 25, 2015 <http://www.thehindu.com/news/national/a-simple-device-to-curb-female-foeticide/article6819468.ece>

²³⁹ Press Trust of India. “Haryana village launches ‘Selfie with daughter’ contest to save girl child.” *IBNLive*, June 13, 2015. <http://www.ibnlive.com/news/india/haryana-village-launches-selfie-with-daughter-contest-to-save-girl-child-1005493.html>

²⁴⁰ Supra note 5

²⁴¹ Supra note 5.

²⁴² Press Trust of India, “Haryana village launches ‘Selfie with daughter’ contest to save girl child,” *IBNLive*, June 13, 2015, <http://www.ibnlive.com/news/india/haryana-village-launches-selfie-with-daughter-contest-to-save-girl-child-1005493.html>

²⁴³ Betwa Sharma, “Modi Announces Father-Daughter Selfie Campaign For The Girl Child,” June 28, 2015, *The Huffington Post*, http://www.huffingtonpost.in/2015/06/28/modi-announces-fatherdaug_n_7680494.html

²⁴⁴ “50 million missing”, An international campaign: The fight to end female genocide in India”, <https://genderbytes.wordpress.com/about/>

²⁴⁵ Supra note 2



urgent national attention! While on one hand, national income, per capita income²⁴⁶, literacy rates²⁴⁷ are increasing; incidences of rapes²⁴⁸, domestic violence²⁴⁹, human trafficking²⁵⁰ and overall crime against women²⁵¹ have increased.

Does violence against women really happen? According to a sting operation conducted by Tehelka, more than half police officers in Delhi believe that 'real rape cases' were rare.²⁵²

*"She asked for it. It's all about money. They have made it a business. It is consensual most of the time" – SHO, Delhi (NCR)*²⁵³

Khap Panchayat, the local council of villages, suggested child marriage as a solution for reducing rapes in India.²⁵⁴ According to them, marriageable age for girls should be reduced to 16 for reducing rapes incidences.²⁵⁵ These statements are insensitive! They demonstrate the misogynistic attitude of public, policemen and ministers, and indicate the extent to which it is both accepted as normal, and have become endemic.

CONCLUSION

Sociologists believe that there is a state of anomie or normlessness in Indian society.²⁵⁶ More law — or calls for the death sentence — are not the answer to what is a deeply ingrained societal problem. There is a need for parents as well as society not to raise sons in a way in which they are indoctrinated with a sense of superiority and privilege. There is also a need on the part of young men to be actively involved in their schools and communities in advocating women's equality rights.

What makes a prevention initiative successful? What can limit the usefulness, intensity and impact of the ongoing prevention efforts against femicide in India? Reforms and prevention efforts that address social, cultural, economic and gender disparities can create incremental and everlasting changes²⁵⁷. The grass root interventions help change mind sets and prevent femicide. Even though trickledown effect is bringing incremental changes, as apparent from the sex ratio of Kerala²⁵⁸ (1084 females per 1000 males), still a lot needs to be done. A sustainable paradigm shift in femicide prevention is possible when the medical, legal, administrative services and sociocultural forces work together in conjunction to bring about rapid change. Interventions planned and executed at multidisciplinary levels (national, societal and community level) is essential in bringing about much needed change in tolerance and acceptance of violence against women and girls because of their gender. A single form of preventive strategy is insufficient and ill-equipped to eradicate the critical issue of femicide in a multicultural country like India.

²⁴⁶ BS reporter, "India's per capita income up 10%," Business Standard, July 4, 2015 http://www.business-standard.com/article/economy-policy/indias-per-capita-income-up-10-in-2014-115070301205_1.html

²⁴⁷ B Sivakumar, "Literacy rates jumps 10% in a decade in India," *The Times of India*, November 23, 2014 <http://timesofindia.indiatimes.com/India/Literacy-rate-jumps-10-in-a-decade-in-India/articleshow/45244626.cms>

²⁴⁸ "Ten fold increase in rape cases in India since 1971," *The Economic Times*, January 14, 2014 http://articles.economictimes.indiatimes.com/2014-01-14/news/46185373_1_ncrb-report-increase-dacoity

²⁴⁹ Neha Madaan, "Rise in domestic violence cases," *The Times of India*, February 19, 2014 <http://timesofindia.indiatimes.com/city/pune/Rise-in-domestic-violence-cases/articleshow/30636710.cms>

²⁵⁰ Devanik Saha, "The Numbers story: A Human Trafficking cases rise, convictions come down," *The Indian Express*, January 30, 2015 <http://indianexpress.com/article/india/india-others/the-numbers-story-a-human-trafficking-cases-rise-convictions-come-down/>

²⁵¹ Supra Note 2

²⁵² Abhishek Bhalla and G Vishnu, "The Rapes will go on," Tehelka, April 14, 2012 <http://www.tehelka.com/2012/04/the-rape-will-go-on/>

²⁵³ ibid Bhalla and Vishnu, "The Rapes will go on"

²⁵⁴ "Haryana khap panchayats meet today to push for early marriages for girls," NDTV, October 13, 2012 <http://www.ndtv.com/india-news/haryana-khap-panchayats-meet-today-to-push-for-early-marriages-for-girls-501646>

²⁵⁵ ibid "Haryana Khap Panchayats"

²⁵⁶ Jukka Savolainen, "Inequality, Welfare State, and Homicide: Further support for the Institutional Anomie Theory," *Criminology* 30 (2000): 1021- 104

²⁵⁷ Akansha Shukla and Kushendra Mishra, "The Prejudices of Portrayal: A Study of Femicide Reporting in Select Indian Newspapers," *The Asian Man* 7(2013): 130-134, doi:10.5958/j.0975-6884.7.1X.017.

²⁵⁸ Supra note 5.



4.9. A STILL UNFINISHED WAR: SRI LANKA'S SURVIVORS OF TORTURE AND SEXUAL VIOLENCE 2009-2015

International Truth and Justice Project Sri Lanka

CONCLUSIONS

The Sri Lanka government has spent years hiding the extent of torture and sexual violence perpetrated by its security forces behind claims of having a “zero tolerance policy on sexual and gender based violence” much as it once claimed to wage “a zero civilian casualty war”.

Our first report, *An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009-2014*, concluded that the abduction and arbitrary detention of witnesses by the Government of Sri Lanka and its agencies were a clear violation of Article 12 of the Universal Declaration of Human Rights and Articles 9; 9(1); 9(2); 9(3); 9(4); and 9(5) of the International Covenant on Civil and Political Rights (ICCPR), which contain provisions to safeguard against arbitrary detention and abuse in detention.²⁵⁹ It also concluded that the evidence we had gathered then pointed to the security forces of the Government of Sri Lanka having violated the rights of the witnesses through torture, rape and sexual violence, cruel and inhuman and degrading treatment.

This further study has added more evidence on which to make the same conclusions, namely a larger base of victims spread out in more countries, as well as several key security force and government insider witnesses including, informers, soldiers and a “white van” operator to corroborate their accounts.

The evidence demonstrates a pattern of widespread and systematic torture, rape and other forms of sexual violence, cruel and inhuman and degrading treatment, terrorisation, illegal detention, killings and enforced disappearance, and persecution, which continue to be committed six years after the end of the war by the security forces of the state of Sri Lanka against civilians in Sri Lanka.

This pattern, as set out in detail in the 2014 report, suggests the commission of crimes against humanity which is planned and coordinated by the state and by individuals who operate as part of the state security forces. It is institutionalised and systematic.

COMMAND RESPONSIBILITY

Those in positions of authority who ordered that these crimes should be committed and whose orders were followed in committing these crimes would be individually criminally responsible for the commission of these acts as crimes against humanity.

Those who facilitated, solicited, induced, or aided and abetted in the commission of these crimes would be individually criminally responsible for the commission of these acts as crimes against humanity.

A military commander (any commander of any branch of the security forces could qualify as a military commander) whose subordinates under his effective authority and control commit these acts, who knew or should have known that his subordinates were committing these crimes, and who failed to prevent or punish or submit these allegations to the competent authorities, and as a result of his failure in his duty the acts were committed, would be individually criminally responsible for the commission of these acts as crimes against humanity through the theory of command responsibility.²⁶⁰

Similarly, any superior whose subordinates under his effective authority and control commit these acts, who knew or consciously disregarded information which clearly indicated that his subordinates

²⁵⁹ 112th Session of the Human Rights Committee, Consideration of Sri Lanka's 5th Periodic Report under the International Covenant on Civil and Political Rights, 7-8 October 2014, accessed at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/LKA/INT_CCPR_AIS_LKA_18459_E.pdf

²⁶⁰ See, Rome Statute of the ICC, Article 28. See also, Women's Initiatives for Gender Justice, *Modes of Liability*, pages 88 to 96 for a detailed description of the current status of the jurisprudence regarding superior responsibility.



were committing or were about to commit such acts which were within the effective authority and control of this superior, and who failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit to the competent authorities for investigation and prosecution, would be individually criminally responsible for the commission of these acts as crimes against humanity through the theory of superior responsibility.²⁶¹

IMPUNITY

Six years after the end of the war, the widespread and systematic nature of these attacks on Tamils (and a few non-Tamils) suspected of ties to the LTTE goes well beyond punishment or revenge. These attacks speak of a government-supported effort to annihilate by any means the LTTE and subjugate the Tamil population that once supported them.

Abduction, torture and sexual violence, as well as reprisals and persecution, are all part of the machinery of control, used to dehumanise and humiliate Tamils. The aim is to spread terror among the population through violence, fear and humiliation so that its members will never dare raise their heads to demand their rights for the future or justice for the past. The perpetrators have such a high degree of impunity that systematic torture, including rape and sexual violence, has become elevated to an industry and is now part of a state-run machinery of corruption and extortion that any new government will find hard to rein in now.

Families are repeatedly violated in several different ways – from being forced to go into hiding, to multiple members being abducted and raped and parents becoming impoverished and losing their means of livelihood in order to pay officials to extract their children from torture cells. The population is powerless to protest and their representatives often find themselves reduced to acting as middlemen to organise the ransom to secure a detainee's release and help them escape the island. When families ask for information about a person who has disappeared they risk being abducted themselves or told the person never existed.

That we can piece together such a compelling body of evidence from outside the country, identifying multiple torture sites, including secret camps, figures with command responsibility as well as individual torturers and rapists, shows how little political will there is to do this work inside the country. Unlike the investigative authorities inside Sri Lanka, we do not have powers of subpoena or wire taps, large funds or numerous staff but we do have the trust of victims and witnesses, thousands of whom are now outside the country. The evidence is here, fully documented, and this is only a representative sample of its scope. The question remains: will Sri Lanka and the international community take any genuine steps to ensure accountability and justice for these violations? Or will the complete lack of accountability, the continuation of the militarisation and state oppression by the security forces, and the terrorisation of the Tamil population, and in some cases Muslim or Sinhalese who support them, continue?

Sadly, the only reasonable inference is that despite the high hopes that came with the change in government in 2015 that the culture of impunity would be pierced and the rule of law would prevail in Sri Lanka, the suffering inflicted on Tamils by the security forces will continue unless there is strong, effective and meaningful international intervention.

ACCOUNTABILITY

Given there already have been two UN inquiries into the conduct of the end of the war (UN Panel of Experts and OISL), sufficient evidence from witnesses who are already safely abroad exists from these two inquiries, as well as that gathered by ourselves, other INGO's and local NGOs. This body of evidence that now exists can be presented to a competent independent body for their consideration for drafting indictments and international arrest warrants. There is no need for yet another Presidential Commission of Inquiry which would cause increased and unnecessary delay, risk and trauma for victims and witnesses and their families and financial costs, that are better dealt with by other justice mechanisms or processes which can deal with those cases which will never come before the courts.

Sri Lanka has a very poor record of achieving truth or justice through the various Commissions of Inquiry it

²⁶¹See, Rome Statute of the ICC, Article 28. See also, Women's Initiatives for Gender Justice, *Modes of Liability*, pages 88 to 96 for a detailed description of the current status of the jurisprudence regarding superior responsibility.



has established in the past with no accountability of any kind domestically for any past violations. The last domestic initiative that involved an international component - the Commission of Inquiry into 16 cases, including the massacre of the ACF aid workers and the murder of five Trincomalee students in 2006 – was an abject failure, primarily due to serious witness protection issues. The 11 members of the International Independent Group of Eminent Persons (IIGEP) who had been invited by the President to observe his “independent” commission and to ensure that the commission conducted its investigations according to international norms and standards, all resigned in early 2008 for a number of reasons, the most important of which was that it was of their view that the commission had repeatedly failed to meet international norms and standards. One of the key concerns of IIGEP was the role of the Attorney General, who played the role of chief legal adviser to the army, police and President and was thus in a conflict of interest, especially when the commission was tasked to investigate why the initial investigations into the 16 cases were failures in the first place and the Attorney General’s office was involved in those investigations. Throughout its mandate, IIGEP attempted but failed to have officers of the Attorney General’s office removed from the inner workings of the commission.

Furthermore, an accountability mechanism, whether in the form of a ‘Truth Recovery’ process and/or criminal prosecutions located in Sri Lanka, presents serious problems for witnesses’ safety, not just during the process, but after it concludes its work. In addition most of those who testified to the UN OISL Inquiry are offshore and would not want to return to the country to be part of a process there unless their safety and that of their families was guaranteed. In the current climate of ongoing violations and reprisals that is impossible.

The context of Sri Lanka is different from the context of other countries in transition as many of the alleged perpetrators and their authority structures are still in place, still wielding power or great influence, still allegedly committing ongoing violations, and still for the most part Sinhalese. The Rajapaksa and the Sirisena governments have both refused cooperation with the UN OISL Inquiry. The pattern of recalcitrance and complete state sponsored denial of any wrongdoing has resulted in the international community lowering the standards for government cooperation.

Given these past experiences, UN agencies and international NGO’s should not be seduced once again into offering technical assistance to the Government of Sri Lanka to establish a domestic accountability mechanism in the current climate of grave ongoing violations, especially if there is no independent robust, empowered and fully funded international accountability system in place. The failure to address accountability is not due to a lack of technical expertise but rather one of political will. Thus an accountability mechanism based in Sri Lanka creates the real risk of needlessly putting witnesses’ lives in peril, without establishing the truth or securing justice for them.

As IIGEP put it, “international standards call for a separation between commissions of inquiry and those agencies or persons who may be the subject of such investigations or inquiries”. It is difficult to see how a government comprised of civilian and military figures in positions of responsibility at the time the crimes were committed can investigate itself impartially while still intimidating witnesses and committing fresh violations.

STANDARDS REQUIRED

In the current environment of persecution of victims and witnesses any hybrid justice mechanism must be established on the basis of the highest international standards that guarantee complete independence and are monitored very closely. It would need to have at a minimum the following:

- A President of the court and a court composed of an equal number of international judges, international prosecutors, international investigators and international witness protection experts (with an effective program being developed to meet the unique situation in Sri Lanka and management experts with law enforcement-style powers of protection of witnesses and their families) working in partnership with local Judges, prosecutors, investigators and experts in order to ensure that it is truly hybrid. In order to ensure that decisions do not become hostage to the composition of the court, the President of such a court should be an international. Both the internationals and the locals should be the subject of a genuinely independent screening and vetting process comprising the President of the Court and a UN body. This type of hybrid mechanism would need to have its own statute and mandate, its own rules, independent funding



and the power to pass criminal sanctions up to a maximum of life imprisonment and, among other things, recognise principles of command responsibility as well as the crimes of aiding and abetting as defined by the Rome Statute and the issue of co-perpetration or joint criminal enterprise. The sentences would need to be served outside the country by those convicted.

- The witness protection mechanism would need to be fully independent including its funding, from the government and have law enforcement powers and funding for resettlement of witnesses outside Sri Lanka where necessary.

- There would need to be in place some method of taking evidence from witnesses outside the country, whether through a mobile branch of the mechanism or an off shore branch, or testimony by video conference and in a manner that provides the witnesses abroad safety as well as their families back home.

- There would need to be funding for extensive outreach, which must be comprehensive and robust.

- The inclusion of domestic practitioners who are of Tamil origin and/or who have no affiliation with the authority structures, and have never worked for the government in any way.

- Each and every Sri Lankan appointee would need to be vetted by the UN/international leadership of the Tribunal to ensure there is no connection between past alleged crimes and these individuals or any other conflict of interest. Under no circumstances can any individual who was part of the security forces structure previously serve as members or staff on the hybrid tribunal.

- Investigators working for the hybrid tribunal must have full and unfettered access to any and all evidence from any and all sources including that of the security forces and all branches of government and should be empowered and authorised to conduct searches, seizures, and interviews of any and all individuals within or outside the government and security forces structures, without any prerequisite procedures (such as waivers of immunity and the like.)

- Interpreters of an internationally recognised standard must be used to enable witnesses to testify in all three languages of Sri Lanka and a quota system for Tamil speaking staff applied. Documentation and records should be kept in three languages.

- The Sri Lankan military must be compelled to make available to the Tribunal all evidence in its possession or control, including but not limited to all drone and video surveillance footage from the war, all electronic signals communications and records, as well as wireless recordings and transcripts and situation reports, satellite material and also radio intercepts of the LTTE by the SLA. It should also make available all files from rehabilitation and detention facilities including interrogation and confession records.

- Crimes considered should be war crimes and crimes against humanity and other grave breaches of human rights under both domestic and international law should date back in temporal jurisdiction to at least 2005 and include the concluding phase of the war in the East as well as in the Vanni and should extend until the present day.

- Any mechanism established should have full and complete control over all documentation and evidence collected and used in the course of proceedings (pre-trial, trial and post-trial).

Any accountability mechanism established in Sri Lanka must also be preceded by the following basic reforms and conditions:

- Security Sector Reform process that includes the security sector, the judiciary, the Office of the Attorney General and the prison system

- The repeal of the death penalty.

- The repeal of the Prevention of Terrorism Act and Emergency Regulations.

- Ratification of the Rome Statute and the incorporation into domestic law of international crimes, including criminalising war crimes and crimes against humanity and adding procedural provisions of command responsibility similar to those found in the Rome Statute. This must be done before any domestic or hybrid



Tribunal is established.

- That there be no statute of limitations in relation to the crimes.
- That no head of state secures immunity from prosecution.
- That the right to reparations for victims be legislated.

SQUANDERED OPPORTUNITIES

The Human Rights Council in March this year deferred the OHCHR report in order to provide the new Sirisena government an opportunity to put in place measures to address ongoing violations and accountability for violations committed during the final phase of the war. The new government also committed itself to establishing an appropriate transitional justice programme in consultation with victims so as to address impunity and deal with accountability. An appropriate transitional justice programme has the potential to rebuild the trust of citizens in the institutions of the state. However these steps have either not been taken at all or not taken effectively. Measures should have included law reform ensuring the independence of the Judiciary, the office of Attorney General and the prosecutorial services. The witness protection act should have been revised so as to properly afford victims and witnesses protection if they came forward to testify. Sadly the new government has not addressed impunity, which is rife in the country and squandering good will and opportunity. Frankly victims do not trust the state and its institutions.

RECONCILIATION

Ultimately reconciliation is about finding ways for people to live together without fear, where the state has restored their rights as citizens, and where equality and right to freedom are entrenched and respected irrespective of religious beliefs or ethnic identity or which side of the political spectrum one comes from. Reconciliation, while a worthy aspiration, cannot be embarked upon while a campaign of persecution is still underway and impunity continues unabated. This is a still unfinished war.

VI. RECOMMENDATIONS

Call to UN Secretary General, Ban Ki Moon, ICC Prosecutor, SRSG on Sexual Violence in Armed Conflict, and the Donor and International Community:

In accordance with the UN's zero tolerance policy for sexual abuse and as a preventative measure as set out in the Secretary General's report in March 2014,²⁶² and in the light of the credible allegations of torture, rape and sexual violence committed in the period following the end of the conflict in 2009 set out in this report and our previous report, we call upon the UN Security Council to refer both reports, which indicate reasonable grounds to believe that crimes against humanity are occurring in Sri Lanka, to the Prosecutor of the International Criminal Court for further action against those who bear the greatest responsibility. Alternatively, we urge the ICC Prosecutor to explore the cases of individuals who bear the greatest responsibility. We also call upon States who are signatories to the Rome Statute to refer these cases to the ICC Prosecutor urging her to open a file.

Second, we call upon the Secretary General's Special Representative on Sexual Violence in Conflict and the Special Rapporteur on Torture to arrange a visit to Sri Lanka and initiate a special inquiry into rape and sexual violence with the mandate to report back to the relevant UN bodies on the allegations raised in this report.

Third, we call upon the UN Department of Peace-Keeping Operations to immediately suspend Sri Lankan police and military involvement in UN peacekeeping missions, pending an independent international inquiry into allegations of current, systematic and widespread sexual abuse by the security forces in Sri Lanka, noting that it is not sufficient to screen individual officers when there is a large body of evidence of a pattern of widespread and systematic sexual abuse of detainees by members of the security forces and collusion amongst multiple branches of the forces at high levels within the Government of Sri Lanka.

Fourth, we call upon international bodies such as OHCHR and ICRC not to offer the Sri Lankan government

²⁶² UNSC, Conflict-related sexual violence, S/2015/203, 23 March 2015.



technical assistance on human rights without at the very least an effective monitoring mechanism, such as the appointment of a Special Rapporteur or a Special Envoy. Given the level of threat to witnesses, recommendations should take account of internationally accepted witness protection standards that would not only protect witnesses but also their families remaining in Sri Lanka.

We call upon Member states having universal jurisdiction over torture, rape and sexual violence to initiate prosecutions against identified perpetrators who bear the greatest responsibility, taking note of the need for witness protection measures as set out above.

FURTHER ACTIONS:

National Governments:

All decision makers within national asylum procedures should have careful regard, when seeking to evaluate risk on return to Sri Lanka in an individual application for asylum, reports produced by well-established NGO's on the position of returnees and current UNHCR guidance on country conditions in Sri Lanka. Furthermore, it is imperative that all Sri Lankan asylum seekers should, *prima facie*, have access to full national asylum procedures. Given the concerns highlighted in this report about the treatment of detainees, asylum applications should proceed on the basis that they are well founded with the consequence that it is inappropriate to subject them to accelerated asylum procedures.

The European Union:

Subject to witness protection concerns, a cross-border Europe-wide study should be established to investigate cases where Sri Lankan asylum seekers have entered one member country, failed to get asylum, returned to Sri Lanka and were tortured and then fled back to that country or to a second European country to claim asylum. There is currently no system to detect this phenomenon or for member states to know the results of their decisions.

Donor counties:

Countries that funded projects connected to the government's rehabilitation programme in Sri Lanka should immediately commission an independent probe into the rehabilitation programme and audit whether their funding in any way made them, or continues to make them, complicit in the torture, rape and sexual violence of detainees by members of the security forces.

Internationally funded human rights training programmes for the Sri Lankan police and military should be not be conducted henceforth until there is an independent audit of their effectiveness.

Tamil Diaspora Communities:

Tamil Diaspora Communities need to take further steps to address the social stigma surrounding sexual torture for both men and women, as well as be available to help the survivors and their families' access medical and psychological support. Diaspora Communities need to be extremely mindful of the security risks to individuals abroad and their families in Sri Lanka when asking survivors of torture to participate in media interviews or protest in demonstrations abroad.

We have a large body of credible evidence that Tamils who have demonstrated abroad have been abducted and tortured upon return to Sri Lanka. Family members remaining in Sri Lanka of those who protest or speak out in the media about torture from abroad are also being killed, disappeared, physically hurt or threatened. There are drastic adverse consequences to innocent people involved in identifying victims in public, even if they are safely abroad and give consent.



4.10. LETHAL VIOLENCE AGAINST WOMEN AND GIRLS

Executive Summary

by Mihaela Racovita, in *Global Burden of Armed Violence 2015: Every Body Counts*.
Cambridge University Press, pp. 87-120.
www.genevadeclaration.org

The 2015 edition of the *Global Burden of Armed Violence*²⁶³ provides a wealth of data relevant to security and the post-2015 sustainable development framework. It estimates that 508,000 people died violently every year during the period 2007–12, with the majority of these deaths occurring in non-conflict settings.²⁶⁴ While men (especially young men) are the primary perpetrators and victims of violence in general, women and girls are affected by particular types of violence, which vary across contexts. The emerging ‘gender gap’ in victimization underscores the need for sex-disaggregated data on lethal violence.

This chapter provides an update of the findings of the 2011 edition of the *Global Burden of Armed Violence* (GBAV), and examines the figures and patterns of lethal violence against women globally and in selected cases. In highlighting the most recent and comprehensive data on female homicide available, it explores intimate partner femicides, conflict-related deaths and sexual violence, as well as firearm-related killings of women. The chapter finds that:

- On average, based on data available from 104 countries and territories, the GBAV estimates that 60,000 women and girls worldwide were killed violently every year, from 2007 to 2012. These deaths account for approximately 16 per cent of all intentional homicides committed globally.
- Since the 2011 edition of the GBAV, the median rate of women killed has decreased slightly and female homicide rates have become polarized, as the number of countries with very high and very low rates of lethal violence against women increased.
- While much of the lethal and non-lethal violence against women and girls takes place in non-conflict settings, the risk of multiple or repeat victimization of women is compounded during conflicts.
- In countries with high rates of firearm-related lethal violence the percentage of women killed with firearms is also higher.
- While the majority of homicide victims are men, women are the primary victims of intimate partner homicide, including homicide–suicide

In countries with low levels of female homicide, most killings occur inside the home and are generally perpetrated by an intimate partner or member of the nuclear or extended family.

The global picture of lethal violence against women remains incomplete. While some countries have made progress in data collection methods and increased the availability of sex-disaggregated information on homicides, others—particularly in Asia and Africa—are still severely under-researched. Limited availability and accessibility of such data stems largely from poor reporting practices, an absence of standardized definitions and coding, underreporting, and insufficient resources for training and data collection in relevant state and non-state agencies.

This chapter calls attention to variations in female homicide rates, highlighting improvements as well as deterioration. Since the publication of the 2011 edition of the GBAV, the distribution of female homicide has become more polarized, with the number of countries with low or very low and high or very high rates of female homicide generally increasing, while those in the middle category decreased substantially. The 25 most violent countries towards women account for more than half of all women killed over the past five

²⁶³ The *Global Burden of Armed Violence* is published by Cambridge University Press, and is produced by the Geneva Declaration Secretariat. Further information about the Geneva Declaration, its activities, and its publications is available at www.genevadeclaration.org. This report is based on research, conducted by the Small Arms Survey for the Geneva Declaration Secretariat, and does not necessarily indicate endorsement by any state.

Information on this title: www.cambridge.org/9781107640191 © Geneva Declaration Secretariat, Geneva 2015

²⁶⁴ This figure is a decrease from the 526,000 annual deaths that occurred in the period 2004–09. See Geneva Secretariat. 2011. *Global Burden of Armed Violence. Lethal Encounters*. Cambridge: Cambridge University Press.



years. Of the countries where reliable information is available, those located in Central America and the Caribbean exhibit the highest rates of female homicide for the period 2007–12. El Salvador and Honduras — two countries that also rank highest in terms of overall homicide rates — stand out with rates of more than ten female homicides per 100,000 women.

In countries plagued by conflict, victimization of women takes a variety of different forms. Like men, women can become victims of direct conflict deaths (as combatants or as civilians); they can also become indirect victims of conflicts, including by bearing the burden of displacement or reintegration. Data scarcity on violence affecting women (including domestic or sexual violence) is particularly dire in conflict and post-conflict countries, due to a volatile security situation, an absence of resources, and shifting priorities. Even where conflict data is available, sex-disaggregated data is rare, making it difficult to know the exact magnitude of female victimization.

The instruments used in female homicides vary widely across contexts and regions. Women are killed with firearms, knives, or brute force, depending on the circumstances of the incident, the type of perpetrator, and other contextual factors, such as the presence of firearms in the home. In some conflict settings, the risk of women falling victim to IEDs, explosive remnants of war, or artillery fire is higher than that for small arms. The wide variety of factors at play in femicide calls for a broad set of context-specific policy mechanisms to curb lethal violence against women worldwide.

In many countries women continue to die disproportionately at the hands of their partners as well as members of their nuclear and extended families. Intimate partner femicide shows little variation across time and regions: it remains generally inelastic, suggesting that more targeted policies are needed to reduce this type of 'hidden' violence. In countries with high levels of societal violence, the circumstances of female homicide are markedly different, with a higher proportion of women killed by unknown perpetrators than by their husbands or family members; moreover, the killings are generally perpetrated in public spaces, rather than inside the home—in contrast to intimate partner and family femicide.

4.11. FEMICIDE IN EUROPE

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INTRODUCTION

The rates of women and girls being killed in Europe simply because of their gender is worrying. Due to lack of scientific data, it has not yet been proven whether femicide rises with increased migration. A possible rise in European femicides is anticipated related to stress, economic deprivation, issues of honour, and simple misogyny.

Until the establishment of the COST (European Cooperation in Science and Technology)²⁶⁵ Action IS1206 entitled 'Femicide across Europe' on 9 April 2013, European agencies had never recognised the lethal act of femicide per se, although they had funded initiatives on gender and violence. Now with COST Action IS1206 operating for the past two years, the phenomenon of femicide in Europe is entering the public agenda, and intermeshing with that of global institutions, such as ACUNS. The hope is that the COST Action will be able to document, initiate activities, and eventually combat femicide in Europe.

This article surveys where we stand today.

* This author is the Chair of the COST Action IS1206.

²⁶⁵ COST is an intergovernmental framework for European Cooperation in Science and Technology, allowing the coordination of nationally funded research on a European level. Until 2014, COST activities used to be run under the European Commission's FP7, but then the COST Association was set up as international non-profit association under Belgian law (AISBL). It is the structure integrating governance with scientific, technical and administrative functions of COST, formerly managed by the European Science Foundation through the COST Office. As of 1 October 2014, the COST Association is the legal entity to implement all COST activities under Horizon 2020 based on the Framework Partnership Agreement signed with the European Commission on 24 July 2014.



The Objectives of the COST Action 'Femicide across Europe'

The Action has several aims:

1. To produce an articulated and common theoretical and interdisciplinary framework about femicide through the exchange of ideas by researchers by means of coordinated network meetings, workshops and conferences
2. To establish preliminary conditions for comparisons of European data on femicide, both qualitative and quantitative, in an attempt to reach the level of other countries, which have been more advanced in the study of this subject.
3. To set up coalitions on the prevention of femicide across Europe bringing together established and early-career researchers, women's shelters, police and prison personnel as well as policy makers and advocacy groups.
4. To publish academic articles, as well as recommendations and guidelines for policy makers.
5. To aim at monitoring advocacy groups, women's shelters, police and prison personnel with respect to femicide in the future through the establishment of a European Observatory.

The Action set up four European working groups to achieve its objectives: definitions, data collection, cultural issues, and advocacy and prevention. In addition, it convenes an annual conference on femicide and promotes early-career students in short-term scientific missions (STSMs). STSMs are offered to enable researchers to travel to different countries (Germany to Sweden, Italy to UK, Greece to Cyprus and so on) and study at host institutions for short periods in order to compare data, receive supervision and understand the pan-European situation on femicide.

In addition, the Action maintains the first website on femicide in existence: www.femicide.net

A COORDINATED NETWORK IN EUROPE

To date, 30 countries (29 'COST Countries' and one 'Near Neighbouring Country') have signed a Memorandum of Understanding with COST to work on combatting femicide within the framework of the Action IS1206. This exemplifies that awareness of femicide has grown and that nearly all European countries believe that it is an important issue. While Europe lagged behind the USA and other countries in the study and prevention of femicide, it is now surging forward with the vast majority of European countries at its helm.

Each country chooses two management committee members and a number of substitute management committee members to attend meetings and network. The nearly 80-strong members and substitute members of the management committee have met with politicians, legislators and service providers, who may change realities in their own countries and within Europe as a bloc. Sessions have even been held in two different parliaments in Europe: in Portugal and in Aragon, Spain.

All the meetings on femicide take place within Europe, although keynote speakers and invited guests have come from India, the United States, South Africa and so on. A special attempt is made to hold the workshops and conferences in countries that the European Commission calls 'inclusive countries', such as Romania, Lithuania, Slovenia, Cyprus, and Macedonia. Indeed, this year, Working Group 2 and 4 will meet in March 2016 in Vilnius to discuss data collection and prevention of femicide, and the annual conference will take place in Slovenia in May 2016.

In July 2015, the Action held the first-ever training school on femicide in Rome, Italy. Thirty participants received a stipend to attend, which covered flight and accommodation at the Rome police headquarters. Throughout the five-day school, early-career trainees were mentored by trainers and policy makers, and interacted with advocates.

COMPARATIVE DATA COLLECTION

After years of neglect, the task of gathering and comparing data has begun. The aim is data collection assessment through quantitative and qualitative means, by taking into consideration reliability in an attempt to build a comparative model of femicide rates in Europe. Variations in femicide rates across regions and countries have been reported. During the period 1985-2010, "female homicide victimization" increased in some countries in Europe (e.g. Switzerland, Slovenia, Portugal), remained relatively stable in others (e.g. France and Italy), while some countries, such as Norway, had extremely low rates of femicide. According to Stamatel, understanding the macro-level variations in these data



requires complex analyses that bridge criminological theories and socio-historical circumstances.²⁶⁶ In a comparison of ten European countries, COST Management Committee members Corradi and Stockl compared national statistics on intimate partner violence in Finland, France, Germany, the Netherlands, Italy, Germany, Portugal, Slovenia, Spain, Sweden and the UK, and examined policy making in these countries. Notwithstanding the differences, the authors find similarities in policy developments and the impact of activist women's movements and public action in all the countries.²⁶⁷ Of course, there are great difficulties in comparing data. In one of our meetings, invited speaker Stamatel from the USA suggested that at this stage we confine ourselves to 'meta-data', that is, data about data, which are ways of categorizing information through harmonization with the European Homicide Monitor, web information, published material, and so on.²⁶⁸

PREVENTION OF FEMICIDE

There are many ways of preventing femicide. One way is to raise public awareness and lobby against the phenomenon in the public arena. During the Action's annual conference in Portugal, delegates were invited to the Assembleia da Republica in Lisbon to discuss the issue of high rates of femicide. Similarly, during the annual conference in Zaragoza, Spain, delegates took part in a discussion on femicide in the Aragon Parliament with Members of Parliament representing different political parties.

Another way to combat femicide is to learn from one another which services are more effective within Europe for high-risk groups, and how to disseminate good practices. To this end, members visited shelters for victims of severe domestic violence in different countries and exchanged ideas with representatives of the police and prison services in the United Kingdom, Italy and Romania. Links have been forged with police personnel, prison officials and women's rights leaders. Undoubtedly, prevention of femicide will have to be beefed up with feminist organisations and NGOs in the light of the current European migrant crisis.

PUBLICATIONS

Individual researchers are now focusing on femicide per se, whereas until a few years ago, the major preoccupation was domestic violence or gender abuse. It could be argued that femicide as an object of study is gaining legitimacy.

A few articles have already been published in scientific journals and several more are in process. Most are quantitative in nature, but some qualitative studies are also being carried out on what I term 'failed femicides'. In this publication *Femicide 4*, three COST members have written reports on "honour crimes",²⁶⁹ femicide in Latin America,²⁷⁰ and femicide in Georgia.²⁷¹ The journal *Current Sociology* is planning a Special Issue on Femicide to be edited by four other Action researchers.

An edited volume on violence against women and ethnicity, comparing commonalities and differences in different countries in Europe, shows that knowledge of the experiences of migrant women or minority group females is lacking.²⁷² A qualitative study on battered immigrant women in shelters in Spain revealed that service providers in Spain regard their daily professional encounters with battered immigrant women as frustrating in terms of their attempts to persuade immigrant women to continue with the help-seeking process. Despite policy practices targeted at intimate partner violence, there were insufficient resources to tackle gender-based violence among immigrants.²⁷³

While research into gender violence among migrants is scant, studies of femicide among immigrant populations is practically non-existent. To date, there is no comparative or adequate study of femicide

²⁶⁶ Stamatel, J. (2014), Explaining variations in female homicide victimization rates in Europe. *European Journal of Criminology* 11 (5): 578-600.

²⁶⁷ Corradi, C. and Stockl, H. (2014), Intimate Partner Homicide in 10 European Countries: Statistical data and policy development in a cross-national perspective. *European Journal of Criminology*, 11 (5) : 601-618.

²⁶⁸ A copy of Stamatel's presentation and explanation of the use of meta-data can be found at: http://media.wix.com/ugd/61d2f3_d1a0cf264f46460b897557647749e967.pptx?dn=Janet-concepts%20%26%20dfns.pptx

²⁶⁹ Gill, A. (2015), "Honour", "Honour"-based Violence and so-called "Honour" Killings, pp. in this volume.

²⁷⁰ Grzyb, M. and Hernandez, M. (2015), "Still a Long Way Ahead": Criminalization of Femicide and Addressing Impunity in Latin America: Recent Developments, pp. in this volume.

²⁷¹ Tsomaia, T. (2015), Foeticide, Femicide and Violence against Women in Georgia, pp. in this volume.

²⁷² Thiara, R. Condon, S. and Schrottler, M. (2011). Violence against Women and Ethnicity: Commonalities and Differences across Europe, Germany and USA: Barbara Budrich Publishers.

²⁷³ Briones-Vozmediano, E. et al (2014), Professionals' Perceptions of Support Resources for Battered Immigrant Women: Chronicle of an Anticipated Future, *Journal of Interpersonal Violence* (29): 1006-1027.



amongst migrants, women asylum seekers, or refugees in Europe.

EUROPEAN OBSERVATORY

A final aim is to set up a European Observatory in order to continue the work of data collection, both quantitative and qualitative. The implementation of this idea is in its infancy. To this end, the COST Action is convening a meeting in Brussels in November 2015 of NGOs and stakeholders fighting to wipe out femicide in Europe with a hope of joining forces and establishing a European Observatory. Whether this aim will be fulfilled depends on the availability of large funds.

Conclusions

During the past two years, awareness of the issues of femicide has increased. A coordinated network on femicide has been established. Now the vast majority of countries in Europe have signed a Memorandum of Understanding with an intergovernmental framework (European Cooperation in Science and Technology) on 'Femicide across Europe'. After years of stagnation in which domestic violence and gender conflict succeeded in gaining recognition, femicide in Europe is finally entering the public arena, and interacting with global institutions. In November 2014, this author was invited by ACUNS to attend and contribute to the discussion on femicide in the UN in Bangkok. In October 2015, she will participate in a special consultation on femicide in the UN in New York.

Data on femicide are beginning to be collected and compared in different European countries. Publications are beginning to emerge on the subject, both in quasi-academic journals and in scientific volumes.

The question which remains open is whether this new flurry of activity will actually change the situation on the ground. While an increase in European femicide is anticipated due to the volatile migratory situation, in the long run the hope is that conceptions of masculinity will change as males and females adapt to new realities, patriarchal structures will become more flexible, dominant cultures will show more tolerance to women in their midst, and social structures will discourage the killing of women and girls simply because they are female.



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