

MODULE 3:

# Ending Violence Against Women



Empowered lives.  
Resilient nations.



PUBLISHED BY:

**The United Nations Entity for Gender Equality and the Empowerment of Women**

(UN Women) 220 East 42nd St, New York, NY 10017, USA

and

**The United Nations Development Programme**

(UNDP), One United Nations Plaza, New York NY 10017, USA

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(UNODC), Vienna International Centre, Wagramer Strasse 5, A 1400 Vienna, Austria

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(OHCHR), Palais Wilson, 52 rue des Paquis, CH-1201 Geneva, Switzerland

UN Women: ISBN-13: 978-1-63214-116-3

OHCHR: HR/PUB/18/2

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Design: Irene Ramirez

**MODULE 3:**

# Ending Violence Against Women



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Resilient nations.*





# THE TOOLKIT AT A GLANCE

The Toolkit comprises an Introduction and five Modules:

INTRODUCTION	MODULE 1 The Theory and Practice of Women's Access to Justice Programming	MODULE 2 Marriage, Family and Property Rights	MODULE 3 Ending Violence Against Women	MODULE 4 Women in Conflict with the Law	MODULE 5 Programming at the Country Level
Summary	Summary	Summary			Summary
Women's access to justice	Understanding the overall country context	Creating an enabling environment for women's access to justice			New generation of UNDAFs
Overarching commitments underpinning women's access to justice	Creating an enabling environment for women's access to justice	Creating effective, accountable and gender-responsive justice institutions			The programming cycle of UNCTs
Justice needs of women who face multiple and intersecting forms of discrimination	Creating effective, accountable and gender-responsive justice institutions				Cross-cutting issues to consider during implementation
Programming principles, approach and methodology	Legally empowering women	Legally empowering women			APPENDICES
Purpose and scope	Considerations for crisis-affected contexts	Considerations for crisis-affected contexts			ENDNOTES
About the Toolkit	APPENDICES	APPENDICES			
ENDNOTES	ENDNOTES	ENDNOTES			

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**Above:** Sudan. A Misseriya woman stands in front of a thatched shelter. © UN Photo/Tim McKulka.

# 1.0 Summary

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## 1.1 Why violence against women?

As one of the most common crimes committed against women, violence against women is a severe violation of women's entitlement to the full and equal enjoyment of all human rights

SDG Target 5.2 on the elimination of violence against women is critical for achieving gender equality and the empowerment of women. Violence against women is a grave violation of the fundamental human rights of women and girls and remains one of the most common crimes committed against them. Existing data on violence against women from sources such as UNFPA, UNICEF, UNODC, UN Women and WHO acknowledges that violence against women continues to be a global pandemic and therefore a matter of critical concern.<sup>1</sup> Violence can occur in different private and public spaces, including on the internet and through other evolving technologies. It is rooted in historical inequalities between women and men, and can cause significant physical, social, psychological and economic harm to women.<sup>2</sup>

Women who face multiple and intersecting forms of discrimination are at greater risk of being subjected to violence. For instance, the Special Rapporteur on the rights of indigenous peoples finds that indigenous women are significantly more likely to experience rape than non-indigenous women and more than one in three indigenous women are raped during their lifetime.<sup>3</sup> Similarly, persons with an actual or perceived sexual orientation and gender identity that diverges from a particular social norm are often targeted for violence. The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity highlights killings, rapes, mutilations, torture, cruel, inhuman and degrading treatment, arbitrary detentions, abductions, harassment and physical and mental assaults as particularly widespread.<sup>4</sup>

While violence against women has gained a great deal of attention in justice programming in comparison to other areas of women's rights, its magnitude and accompanying impunity towards violations of women's rights demands a scaling up of programmatic interventions. Within this context, it becomes necessary to carefully ensure that both women and justice and security sector institutions are respectively well equipped to claim and respond to the rights and needs of women.

This Module considers access to justice in the context of violence against women broadly rather than in its particular forms, and explores specific programming challenges and considerations when dealing with the criminal justice system, including by:

- Elaborating on how the three programming entry points outlined in the Introduction and Module 1 (creating an enabling environment for women's access to justice; creating effective, accountable and gender-responsive justice institutions; and legally empowering women) can be used to address violence against women more broadly in the design, implementation and monitoring of women's access to justice programmes.
- Proposing measures that can be undertaken to help ensure the creation of strong, accountable and gender-responsive justice institutions for sustained peace in countries that are transitioning from conflict into development settings.

This Module provides programming guidance on supporting women and justice actors to address violence against women in its broad sense

- Addressing the protection of women from SGBV during the transition from crisis to post-conflict and development.

Justice delivery is not a singular event. Rather, it is a chain of processes outlined in Table 3.1 that seek to ensure that women are able to access remedies for violations of their rights. It is important for programmers to be aware of the challenges that women face as they transition across each step of the justice chain and for guidance to be provided on what must be done to eliminate discrimination and impediments to accessing justice.

**TABLE 3.1 Challenges for women survivors of violence along the justice chain**

Justice chain	Challenges for women survivors of violence
<b>Prevention</b>	<ul style="list-style-type: none"> <li>• Not all forms of violence against women may be criminalized (e.g., marital rape).</li> </ul>
<b>Early detection and reporting</b>	<ul style="list-style-type: none"> <li>• The onus is often on the survivor to file charges, make a formal denunciation or specifically request prosecution, either in law or practice.</li> <li>• Prevalent gender bias and stereotypes by law enforcement personnel results in non-reporting of SGBV against women.</li> </ul>
<b>Investigation</b>	<ul style="list-style-type: none"> <li>• Statutes of limitation or other legal prescriptions bar survivors from pressing charges after a certain period of time.</li> <li>• Survivors are often required to wait long hours at police stations. They are also interrogated numerous times by male police officers, examined by male forensic officers, treated disrespectfully and deprived of privacy when being interrogated and providing statements.</li> <li>• Circumstantial evidence is often inadmissible, making the survivor the sole source of evidence.</li> <li>• Evidentiary rules frequently treat physical evidence as essential to proceeding with a criminal charge, which is challenging in such cases where there is delayed reporting or the violence involved is psychological, emotional or economic in nature.</li> <li>• There is often no access to immediate, urgent or long-term protection measures, as well as risk assessments or safety plans for survivors.</li> <li>• Survivors are regularly required to testify several times and often in the presence of the accused.</li> <li>• The police may request payment for transportation and fuel (gas/petrol) to investigate the crime.</li> <li>• In many countries, survivors are given a set of forms by the police to submit to health services for medical examination (as part of the process of gathering evidence) as well as for purposes of prophylaxis care. Sometimes such forms are not user-friendly for medical examiners and may not yield the required information that is needed for evidence purposes.</li> </ul>
<b>Pretrial</b>	<ul style="list-style-type: none"> <li>• Most survivors are unfamiliar with the criminal justice process, do not have access to legal aid services and are therefore uninformed of what is expected of them.</li> </ul>

Programming should be informed by the challenges that women survivors of violence face along the justice chain

<b>Decision to prosecute</b>	<ul style="list-style-type: none"> <li>• Criminal procedure and court administration generally do not allow for the particular vulnerability of women survivors to be taken into consideration, as such, their specific needs are often not accommodated.</li> </ul>
<b>Trial and sentencing</b>	<ul style="list-style-type: none"> <li>• Judicial practice or existing procedural requirements often lead to decisions that are not survivor-friendly, which results in alienating survivors from the process and leading them to withdraw the case or give up. Attrition rates thereby increase and conviction rates decrease.</li> <li>• Evidentiary rules may allow cross-examination on sexual or personal history, require corroboration or allow for adverse inference resulting from delayed reporting.</li> </ul>
<b>Corrections</b>	<ul style="list-style-type: none"> <li>• Survivors are not informed of the release of the offender, even when both survivor and offender are from the same community.</li> </ul>

## 1.2 Evolving concepts and terminologies

Understanding the framing of violence against women and how this has evolved over time enhances the contextualization of women’s access to justice programming in this field. The CEDAW Committee’s recent recommendation, [General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19](#) (CEDAW GR 35), frames violence against women within the overall context of discrimination against women as defined by United Nations General Assembly Resolution 34/180, [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW).<sup>5</sup>

CEDAW GR 35 also emphasizes that specific acts of gender-based violence can amount to torture or cruel, inhuman or degrading treatment within the context of United Nations General Assembly Resolution 39/46, [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#). These acts include: “violations of women’s sexual and reproductive health and rights, such as forced sterilization, forced abortion, forced pregnancy, criminalization of abortion, denial or delay of safe abortion and/or post-abortion care, forced continuation of pregnancy, and abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment.”<sup>6</sup>

Definitions of violence against women have evolved over the years in different legal frameworks and contexts. The following definition of the United Nations General Assembly Resolution 48/104, [Declaration on the Elimination of Violence against Women](#), was reaffirmed by the [Agreed Conclusions of the 2013 Commission on the Status of Women \(CSW\) on the elimination and prevention of all forms of violence against women and girls](#):

“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.”<sup>7</sup>

Violence against women is defined in various ways and has evolved over the years, culminating in CEDAW GR 35 in 2017

The term “gender-based violence” refers to “violence that is directed against a woman because she is a woman or that affects women disproportionately”, including “acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”<sup>8</sup>

Violence against women is broad in scope, encompassing, but not limited to, the following:

- Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, FGM/C and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.<sup>9</sup>
- Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.<sup>10</sup>
- Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.<sup>11</sup>
- Often ignored economic violence, which is recognized by the United Nations High Level Panel on Women’s Economic Empowerment. The Panel adopts the definition of UN Women’s Virtual Knowledge Centre to End Violence against Women and Girls: “acts such as the denial of funds, refusal to contribute financially, denial of food and basic needs, and controlling access to health care, employment, etc.”<sup>12</sup>

These definitions have been elaborated upon over time to consider other relevant dimensions of violence against women.

The [BDPfA](#), adopted at the Fourth World Conference on Women, expanded the definition of gender-based violence to include: violations of the rights of women in situations of armed conflict, including systematic rape, sexual slavery and forced pregnancy; forced sterilization, forced abortion and coerced or forced use of contraceptives; and prenatal sex selection and female infanticide. It further recognized the particular vulnerabilities of women belonging to minorities: the elderly, the displaced, indigenous, refugee and migrant communities and women living in impoverished rural or remote areas, or in detention.<sup>13</sup>

The CEDAW Committee and Committee on the Rights of the Child [Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices](#) defines harmful practices as “persistent practices and forms of behaviour that are grounded in discrimination on the basis of, among other things, sex, gender and age, in addition to multiple and/or intersecting forms of discrimination that often involve violence and cause physical and/or psychological harm or suffering.”<sup>14</sup>

The [Rome Statute of the International Criminal Court](#) classifies rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity as crimes against humanity “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”<sup>15</sup>



Above: Tanzania. Women claim their space in the electoral process. © UN Women/Stephanie Raison.

### 1.2.1 Definitions

**Administrative reparations:** A programme which aims at providing reparations (see definition of “reparations”), primarily financial compensation, to survivors without requirements of resorting to the judicial system or dependency on the funds handed over by perpetrators.<sup>16</sup>

**Due process:** A collection of rights to which a person who is seeking justice or against whom justice is sought, is entitled. These ensure that fair and impartial treatment is received before, during and after judicial processes and that outcomes meet international standards.

**Essential services:** A core set of services provided by the health-care, social service, police and justice sectors. The services must, at a minimum, secure the rights, safety and well-being of any woman or girl who experiences gender-based violence.<sup>17</sup>

**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.”<sup>18</sup>

It should be noted that United Nations General Assembly Resolution 68/191 and Resolution 70/176, both related to taking action against gender-related killing of women and girls, use the terminology “gender-related killing of women and girls”, recognizing

Words and phrases which are not defined in the text of the Module are defined here

that this is criminalized in some countries as “femicide” or “feminicide” and has been incorporated as such into national legislation in those countries.<sup>19</sup>

**Feminicide:** Building upon the concept of femicide, the Mexican researcher Marcela Lagarde coined the term “feminicide”. She defined it as the act of killing a woman based only on the fact that 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 fulfil its international obligations, including the duty to investigate and punish. Therefore, for Lagarde, feminicide 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.<sup>20</sup>

**Gross violations of international human rights law:** Gross violations, together with genocide and crimes against humanity, are often seen to support the premise that individuals may be held liable for human rights violations reaching the threshold of these crimes. One of the first texts to provide examples of such gross violations was the [Vienna Declaration and Programme of Action](#) (Vienna Declaration) of the World Conference on Human Rights in 1993.<sup>21</sup> The Vienna Declaration offered a wider definition of such violations than had previously been available, and included cruel, inhuman and degrading treatment or punishment, summary and arbitrary executions, disappearances, arbitrary detentions, all forms of racism, racial discrimination and apartheid, foreign occupation and alien domination, xenophobia, poverty, hunger and other denials of economic, social and cultural rights, religious intolerance, terrorism, discrimination against women and lack of the rule of law. OHCHR considers a somewhat wider list, adding these to the above: to deny the right to a fair trial, including to presume a person guilty unless he proves his innocence; to deny freedom of thought, conscience and religion; to execute pregnant women or children; to permit the advocacy of national, racial or religious hatred; to deny to minorities the right to enjoy their own culture, profess their own religion or use their own language; or to deprive one of essential foodstuffs, essential primary health care, basic shelter and housing or the most basic forms of education.<sup>22</sup> Victims of gross violations of international human rights law and serious violations of international humanitarian law have a right to remedy and reparation, as outlined in United Nations General Assembly Resolution 60/147, [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#).

**Reparations:** Reparations are a means to remedy, as far as possible, all the consequences of an illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed.<sup>23</sup> Victims of gross violations of international human rights law and serious violations of international humanitarian law are entitled to full and effective reparation (consisting of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition) as appropriate and proportional to the gravity of the violation and the circumstances of each case.<sup>24</sup>

**Secondary victimization:** Secondary victimization is victimization that occurs not as a direct result of a criminal act but through the inadequate response of institutions and individuals to the victim.<sup>25</sup>



**Above:** Italy. Woman from Benin City in Nigeria, cries on a dormitory bed in the safe house where she now lives, on the outskirts of Taormina in Sicily. © UNICEF/Gilbertson.

**Serious violations of international humanitarian law:** Serious violations of international human rights law usually fall within the “Grave Breaches” regime of Article 147 of the ICRC [Geneva Convention IV relative to the Protection of Civilian Persons in Time of War](#) as well as those listed under Article 3 of all four Geneva Conventions. These cover willfully killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile power, or willfully depriving a protected person of the rights of fair and regular trial, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly. Victims of gross violations of international human rights law and serious violations of international humanitarian law have a right to remedy and reparation, as outlined in United Nations General Assembly Resolution 60/147, [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#).

**Survivor:** Unless otherwise stated from other sources, this Module uses the term “survivor” to reinforce the agency and empowerment of affected women and girls. As noted by the ICJ, women human rights defenders tend to use the term survivor “as a way of reflecting the agency, resilience and courage of women and girls subjected to violence.” Other sources use the terms victim and survivor interchangeably. “Victim” connotes an attempt to recognize “the enormity of the system of gender-based discrimination that women and girls face”. “Survivor” celebrates the individual and recognizes the agency and empowerment of women and girls.<sup>26</sup>



## 2.0 Creating an enabling environment for women's access to justice

International normative frameworks and guidance on addressing violence against women are by far the most comprehensive in relation to women's rights and must be translated into procedural and substantive domestic laws on the diverse manifestations of violence, the availability of remedies, as well as the establishment of institutions and services within reach of all women of all backgrounds. While responding to crimes committed by perpetrators, shifts in mindsets and institutional cultures are needed to ensure that women's rights and needs are placed at the centre of domestic law and practice.

### 2.1 International law

Global and regional standards and norms on violence against women generally aim at its prevention, elimination and redress.

In addition to the international frameworks mentioned above, global standards and norms include: United Nations General Assembly Resolution 3318(XXIX), [Declaration on the Protection of Women and Children in Emergency and Armed Conflict](#); United Nations General Assembly Resolution 55/25, [Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime](#); United Nations ECOSOC, [Recommended Principles and Guidelines on Human Rights and Human Trafficking](#); United Nations General Assembly Resolution 317(IV), [Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others](#); ICRC, [Geneva Convention IV relative to the Protection of Civilian Persons in Time of War](#); ICRC, [Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts \(Protocol II\)](#); and United Nations General Assembly Resolution 40/34, [Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power](#). Mention must also be made of the [Agreed Conclusions of the 2013 CSW on the elimination and prevention of all forms of violence against women and girls](#).

At the regional level, references include: African Union, [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#) (Maputo Protocol); OAS, [Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women "Convention of Belém do Pará"](#); ASEAN, [Declaration on the Elimination of Violence against Women in the ASEAN Region](#); ASEAN, [Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in ASEAN](#); and Council of Europe, [Convention on Preventing and Combating Violence against Women and Domestic Violence](#) (Istanbul Convention).

Also relevant are the following global and regional policy guidelines for strengthening the implementation of the above standards and norms: United Nations General Assembly Resolution 60/147, [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#), United Nations General Assembly Resolution 65/228, [Updated Model Strategies and Practical Measures on the Elimination](#)

Global and regional legal standards shape national laws and policies that are geared towards addressing violence against women

Global policy guidelines and the recommendations of human rights bodies also provide important guidance for strengthening responses to violence against women

of Violence against Women in the Field of Crime Prevention and Criminal Justice<sup>27</sup> and the UN Women and OHCHR, [Latin American Model Protocol for the Investigation of Gender-Related Killings of Women \(femicide/feminicide\)](#), a technical tool to aid in the investigation and prosecution of femicide/feminicide.

In addition to the CEDAW Committee, a number of other treaty bodies (e.g., [Human Rights Committee](#); [Committee against Torture](#); and [Committee on the Elimination of Racial Discrimination](#)), Special Procedures (e.g., the [Special Rapporteur on violence against women, its causes and consequences](#); the [Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#); the [Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence](#); the [Special Rapporteur on the rights of indigenous peoples](#); the [Special Rapporteur on the rights of persons with disabilities](#); and the [Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity](#)) and the [Working Group on the issue of discrimination against women in law and in practice](#) have actively monitored and issued recommendations to address violence against women in diverse contexts.

This Section furthermore relies on: CEDAW [General Recommendation No. 19: Violence against Women](#) (CEDAW GR 19); the CEDAW Committee and Committee on the Rights of the Child, [Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices](#); and CEDAW GR 35.

### 2.1.1 Typical programming challenges/opportunities

- The Special Rapporteur on violence against women, its causes and consequences observes “a general lack of understanding of States’ human rights obligations ... to combat and prevent gender-based violence”.<sup>28</sup>
- International standards challenge deeply-rooted norms which justify and perpetuate violence, particularly within the context of its location in the private domain, non-State interference and the culture of silence.
- The multidimensional nature of violence is reflected in diverse global and regional instruments. States are therefore expected to appreciate the scope of obligations that are set under international law and exercise political will to translate these obligations into comprehensive laws and policies.
- Reservations to various articles of CEDAW. For example, when a State enters a reservation to Article 2, which relates to the elimination of discrimination against women, it serves as a barrier to the implementation of international human rights norms such as the principle of non-discrimination, which underpins the fulfilment of all human rights. Additionally, reservations related to women’s equal rights to pass on their nationality to their children and spouses,<sup>29</sup> as well as those related to equal capacity to enter into contracts<sup>30</sup> and equality in marriage and family life,<sup>31</sup> can negate all efforts at implementing international standards on violence against women.

### 2.1.2 Programming considerations and options

The BDPfA and CEDAW serve as important programming tools for promoting positive attitudes towards women and initiating policies to combat violence against women.

Programming may face resistance if standards are perceived as externally imposed, there is a lack of political will or justice actors are not aware of their obligations

- The CEDAW Committee consistently requests States parties to report on measures being taken to “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices, which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”<sup>32</sup> Investments must be made in supporting States in the implementation of this obligation through time-bound national policies that are defined and designed by national partners (e.g., national gender machineries, ministries of justice, law reform commissions, civic education groups, traditional/religious institutions and CSOs).
- Eliminating all forms of violence against women and girls requires a comprehensive and coordinated set of actions in prevention and response, as well as in tackling underlying and root causes.
- National Plans of Action (NPAs), which have been developed in response to the BDPfA Critical Area of Concern on violence against women, must be revised on a regular basis in response to evolving global and regional obligations (see Section 2.3).
- Advocate for the withdrawal of all reservations to CEDAW, using entry points (e.g., nationality, marriage and family life) as may be useful at country level (see Module 1 and Module 2).
- Fully utilize the concluding observations and recommendations of human rights treaty bodies and the UPR on actions that a State must take to address and combat violence against women, including in the context of women’s access to justice.

## 2.2 Domestic law

### 2.2.1 Constitutions

Constitutions are important for addressing violence against women as their content may either hinder or support its elimination at the national level. State accountability for eliminating violence against women is anchored in constitutional guarantees of non-discrimination, equality before the law and broader gender equality provisions where they exist. A total of 183 constitutions (94 per cent) contain a broad range of provisions on the protection of all persons from various forms of abuse, exploitation, acts of torture, inhuman/degrading treatment or punishment and crimes against humanity.<sup>33</sup>

#### 2.2.1.1 Typical programming challenges/opportunities

- Broader provisions on violence are not generally complemented by specific provisions on violence against women, as currently presented in some constitutions (e.g., Ecuador, Ethiopia, Malawi, Nepal and Tunisia).

#### 2.2.1.2 Programming considerations and options

Constitutional reforms present opportunities for anchoring specific provisions on violence against women in constitutions. To do so effectively:

- Integrate the results of national surveys, which provide evidence of the scale and scope of violence to inform future constitutional reform efforts. Use this data and global and regional instruments as a basis for advocating for specific constitutional

Programming should advocate for the implementation of global and regional standards and policy guidelines

Constitutions serve as important frameworks for articulating a State’s condemnation of violence against women in line with international standards

Constitutional reform efforts should advocate for specific provisions on violence against women

Legislation is the channel through which the transformational intentions of global and regional standards and norms on violence against women are realized

There may be insufficient political will, legislative reform processes are often slow and discriminatory standards are deeply embedded in legal frameworks

language on the protection of women from violence as well for a social policy justification for change among politicians and constitutional review commissions and related bodies.

- Forge broad partnerships for the incorporation of specific language, or the repeal of language, which may be discriminatory, and work to generate public attention and support for the elimination of provisions, which reinforce the private nature of crimes of violence against women. The importance of partnerships was exemplified during the recent constitutional reform process in Malawi, which resulted in the review of a constitutional provision on the minimum age of marriage of girls from 15 to 18 years. To achieve this, UN Women mobilized the United Nations system, parliament (including the women’s caucus), traditional authorities (including a female traditional ruler who goes by the description, “Child Marriage Terminator”) and CSOs.<sup>34</sup>

## 2.2.2 Formal and informal laws

### 2.2.2.1 Formal laws

In contrast to constitutional provisions on violence against women, more States have enacted laws to address specific forms of violence. To date, 132 countries have equalized the minimum age of marriage (without parental consent) at 18 years or older, protecting girls from child marriage; at least 140 countries have passed legislation on domestic violence; 144 countries have passed laws to make workplaces and public spaces safer for women by prohibiting sexual harassment;<sup>35</sup> and 43 countries have outlawed FGM/C by law or constitutional decree.<sup>36</sup> This data indicates the potential for new laws and a necessity to reform existing laws which are discriminatory towards women.

#### 2.2.2.1.1 Typical programming challenges/opportunities

- The lack of connectivity between laws on violence and other areas of legislation, such as those relating to family law and access to land and resources (see Module 2) or labour and immigration, can stall efforts at providing comprehensive services to survivors of violence, in addition to addressing the consequences of such violence.
- Criminal laws, criminal procedures and evidentiary laws may not be sufficiently aligned with legislation on violence. As a result, effective laws on violence against women may coexist with other legal provisions and procedures which do not allow women to testify on an equal basis as men or force them to marry the perpetrator. In other situations, specific gaps in criminal laws, such as the non-criminalization of marital rape continue to exist.
- The Special Rapporteur on violence against women, its causes and consequences finds that protection orders could be delayed and women are often not informed of their right to apply for such orders.<sup>37</sup>
- Across Federal States, violence laws and protection orders may vary from the federal law in substance, procedure and enforceability across different state jurisdictions and therefore cannot be mutually reinforcing where a violence case involves more than one administrative area.

- Women survivors of gender-based violence are often required by national law to enter into mediation processes involving men who were towards them, especially in cases of family-related violence, divorce and child maintenance and custody disputes. Social stigma and pressure to keep families together, as well as women's lack of economic empowerment, heavily influence a woman's decision to reconcile with those who have inflicted violence upon her. Law enforcement also tends to minimize offences in the belief that domestic violence is a private matter, discouraging survivors from pursuing cases.
- Even where strong laws are in place, the challenges related to enforcement and implementation persist.

#### 2.2.2.1.2 Programming considerations and options

Reform of legislative frameworks on violence against women should be undertaken as part of a comprehensive reform of the legal framework on women's rights, rather than as a separate undertaking. Key issues to consider include:

- A determination of which laws require reform for each area of women's rights, and complementarities across laws.
- The extent to which criminal, family, immigration, labour and health laws are harmonized within a country and reflect relevant international conventions.
- Whether the State has mandatory birth registration to facilitate the identification of survivors by age and parentage.
- Whether the minimum age of marriage is set at 18 years of age, with or without parental consent.
- Whether the definition of violence against women is broad enough to cover women's experiences of violence in the global context as well as in the particular context of the country concerned.
- Whether women can pursue civil as well as criminal remedies against perpetrators, as the complex nature of violence against women often requires a response that combines the two.<sup>38</sup>
- If fines imposed on the offender will cause financial hardship to the survivor and/or her children, for instance where the offender maintains a continuing obligation to pay child support or alimony or the survivor and her children are continuing to live with the offender.<sup>39</sup> When fines are imposed, they should be combined with treatment and supervision of the perpetrator through protection orders and probation.<sup>40</sup>
- Whether the law authorizes the police and other law enforcement agencies to enter premises and conduct arrests in cases of violence against women and to take immediate measures to ensure the safety of survivors. The primary responsibility for initiating investigations and prosecutions should reside with the police and prosecution authorities and not survivors.<sup>41</sup>

Identify ways in which procedural and evidentiary laws (see Module 1) discriminate against women survivors and the changes that are needed to better prevent and protect women from violence. Key issues to consider include whether:

Programming should analyse and assess evidentiary, procedural and substantive laws to ensure that they better protect women and support the ability of survivors to claim their rights

- Entry points for reforms exist, based on the initial country assessment (see Module 1).
- Discriminatory provisions exist with regards to “honour” or “provocation”, and whether there are provisions that allow charges to be dropped if the perpetrator selects the option of marrying the survivor.
- The credibility and sexual history of a complainant can be introduced in both civil and criminal proceedings when unrelated to the case or in bad faith.
- There are obstacles to ensuring that evidence of prior acts of violence, abuse and exploitation by the perpetrator are considered during court proceedings.
- In cases of sexual abuse of girls and adolescents, the law excuses accused persons on the grounds of a subjective assessment that the survivor might have attained the age of majority.
- Sentences are overly lenient and not commensurate with the gravity of crimes.<sup>42</sup>
- Existing statutes of limitations are not restrictive in character and provide sufficient time for survivors to report crimes committed against them.<sup>43</sup>

Ascertain that women can testify in criminal proceedings and that there are adequate measures in place to facilitate the delivery of such testimony. Such measures could include:

- Protecting privacy, identity and dignity, establishing robust witness and survivor protection programmes, ensuring safety during legal proceedings and avoiding secondary victimization.<sup>44</sup>
- Taking into account the vulnerability of survivors in decisions concerning non-custodial or quasi-custodial sentences, the granting of bail, conditional release, parole or probation, especially when dealing with repeat and dangerous offenders.

Ensure that legislation contains appropriate sanctions, remedies and an adequate implementation framework with clear lines of institutional accountability. Specific steps could include:

- The formulation of provisions which direct the relevant government body or ministry to develop protocols and standards as an integral part of comprehensive and timely implementation.
- The integration of clear sanctions and remedies, including rehabilitation of perpetrators of violence.
- Provisions which permit the police and courts to issue and enforce protection and restraining orders, as well as powers to enter the premises to remove the perpetrator from the domicile.

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### **BOX 3.1 Elements for model domestic/family violence legislation**

An objects section (also called a purposes section) is a broad statement at the start of the legislation identifying its main aims. It is an opportunity to make a strong symbolic message about the unacceptability of domestic violence and additionally it provides an important

guide for justice actors in their interpretation and application of the legislation. A good practice objects section will state, at the outset, that violence against women is a form of discrimination and a violation of women's human rights. Other good practice aims include the prevention and reduction of the incidence and consequences of domestic violence, making perpetrators accountable for their actions and maximizing safety for children and adults who have experienced or who are at risk of family and domestic violence.<sup>45</sup>

A comprehensive and clear definition of what constitutes domestic and family violence is a key component of domestic and family violence legislation. The definition determines when a survivor can access the remedies provided by the legislation and sets a community standard of what behaviour constitutes domestic and family violence. The definition of domestic and family violence must take into account both physical and non-physical violence and be non-exhaustive to ensure the inclusion of all forms of violence.

Domestic and family violence legislation must be directed at the protection of persons who have, or have had, a domestic relationship with the perpetrator rather than those who experience violence from a stranger. This is because the legislation is primarily aimed at protecting survivors from further violence from the perpetrator. Domestic and family violence can occur between persons in a range of personal and domestic relationships, including past relationships, where there are power imbalances including intimate relationships (even if they do not constitute a legal marriage within specific jurisdictions including customary and same-sex relationships), dating, between family members including extended family, persons who are cared for by another person and domestic help in the home.

Good practice provisions cover protective, preventive, remedial and punitive measures. Protective measures include protection orders, occupation orders, duties on the police to assist survivors and obligations on the State to ensure survivors have access to medical services, counselling, safe houses and other essential services. It may include interim family law orders for custody of children and spousal and child support. Remedial measures include compensation orders. Preventative measures include obligations on the State to educate and raise awareness. Punitive measures include prosecuting perpetrators in the criminal justice system through the establishment of domestic violence offences with serious penalties. A strong enforcement mechanism for the breach of protective and other orders is also essential.

It is critical that practitioners appreciate the linkages between good practice domestic and family violence legislation and good practice family law legislation, which can enable survivors, who might otherwise face poverty, find alternative means of sustenance.

Police are often the first on the scene at domestic and family violence related incidents and therefore placing positive duties on the police can be critical to ensuring the safety of women and children. Domestic and family violence legislation should place duties on the police to respond to and investigate every report of domestic violence and, when they attend a domestic and family violence incident, to inform survivors of their right to apply for a protection order.

Domestic and family violence legislation should place positive obligations on the State to provide services for survivors, to modify and change behaviour and attitudes, and to compile statistics and to conduct research on the extent, causes and effects of domestic violence.

Source: Christine Forster, "Expert Paper on Domestic Violence Legislation", (2016). Prepared for UN Women. (Unpublished).

Informal laws can reinforce or guard against the patriarchal underpinnings of violence against women

Ideas about violence against women could be perceived as externally imposed, and securing shifts in attitudes can therefore be an enduring and complex process

Programming should prioritize areas of informal laws that can hinder the effective implementation of various violence laws

## 2.2.2.2 Informal laws

While programming must acknowledge the positive dimensions of customary and religious norms, in-depth knowledge of certain aspects and practices that can justify and form the basis for the occurrence and perpetuation of violence against women must also be examined and addressed.

### 2.2.2.2.1 Typical programming challenges/opportunities

- In some settings, various forms of violence against women are justified in the name of custom and/or religion and not considered punishable. These include honour crimes, harmful traditional practices such as sorcery-related violence and violence against older women, dowry related violence, virginity testing and FGM/C.
- Some societies are also known to hold myths which blame women and girls for crimes committed against them.
- Furthermore, the 20-year review of the BDPfA reveals that social norms which perpetuate or justify discrimination and violence serve as a major obstacle to ending violence against women. It finds that victim blaming attitudes are widespread across all countries: data from 37 developing countries shows that 21 per cent of women believe that a husband is justified in beating his wife if she argues with him.<sup>46</sup> Similarly, 27 per cent of women believe that a husband is justified in beating his wife if she neglects the children.<sup>47</sup> 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 countries 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 to 86 per cent across countries.<sup>48</sup>

### 2.2.2.2.2 Programming considerations and options

Using steps outlined in Section 3.2.2.2.2 of Module 1, programming interventions must focus on forging close partnerships with customary and religious leaders, including men and boys, to identify and reform customs, attitudes and beliefs which perpetuate violence. Specific lines of action could include:

- Where acts of violence against women have been identified by local stakeholders as rooted in customary and religious norms, work with them to identify specific areas requiring attention, and prioritize these areas for collective assessment and review.
- A communications strategy that highlights customary and religious laws as important sources of law, while ensuring collaboration with formal sector institutions and compliance with State laws due to the complexity of violence and its impact on women.
- In evaluating the national context (Module 1), determine how women survivors of violence can be best protected. This will require an assessment of the various entry points for collaboration between the formal and informal sector and agreements on referral pathways between them in support of such processes. Such an arrangement should also include strict limits on the jurisdiction of informal institutions as it relates to specific cases of violence.



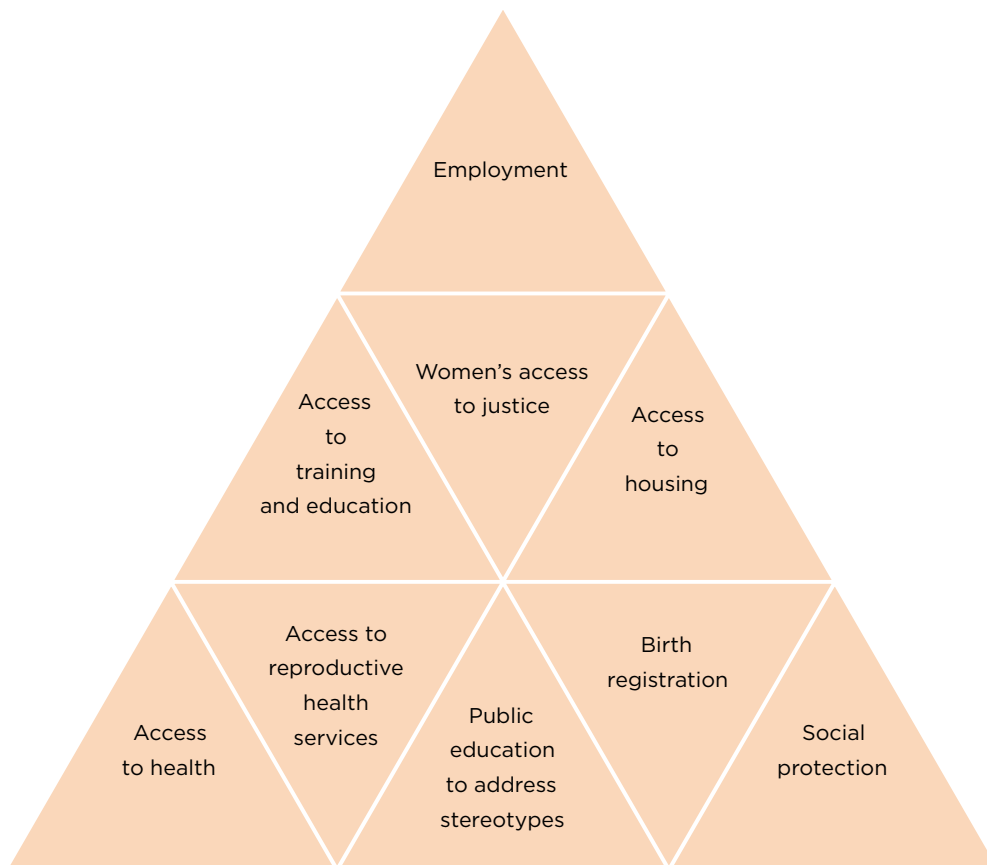
- Institute multi-stakeholder national and community dialogues on different dimensions of violence, such as FGM/C, rape and domestic violence, with eventual agreements on alignment between community norms and State laws.

## 2.3 Justice sector policies and budgets

Although there are a growing number of NPAs on combating violence against women in response to BDPfA commitments, policy response to violence against women is best served when integrated into broader national development plans and justice and security sector strategies and budgets. Coordinated justice and security sector policies are important to women’s access to justice in the context of violence against women. This is because the implementation of legislation relating to violence against women is contingent upon adequate prioritization, planning, budgeting and monitoring of relevant justice services and institutions. Addressing violence against women, moreover, requires focusing on women’s rights holistically to ensure that all related public sector institutions are effectively coordinated and in tune with women’s priorities and the obstacles they confront (see Figure 3.1). Adequate and sustained funding are required for the implementation of legislation at both the national and local levels, as well as the training of key actors, the establishment of services, data collection and public awareness interventions.

Justice sector policy design is important for identifying and budgeting for strategic interventions to address violence against women at all levels of national and local government

**FIGURE 3.1** Policy areas that impact women facing gender-based violence



Other sector policies can enhance the effectiveness of justice and security sector policies as they relate to addressing violence against women

A range of justice and security sector policies that impact women's access to justice in the context of violence against women include:

- **Criminal justice policies:** Violence against women cannot be addressed only by the criminal justice system. Therefore, a coordinated and integrated justice response is an essential component for preventing and addressing the persistent impunity. "Such policies must promote a comprehensive, multidisciplinary, coordinated, systematic and sustained response to violence against women in order to increase the likelihood of successful apprehension, prosecution and conviction of the offender, contribute to the well-being and safety of the victim and prevent secondary victimization."<sup>49</sup> Sound criminal justice policies must include consolidated financial arrangements for the protection of survivors of violence, the provision of remedies and rehabilitation, as well as the rehabilitation of perpetrators of violence. Policies must furthermore promote decentralized planning and implementation, accompanied by effective coordination between national, sub-national and local institutions and referral systems between and across agencies and CSOs which provide justice services to survivors.
- **Criminal justice sub-sector policies:** In addition to sector-wide policies, it should also be possible for individual criminal justice institutions to develop their own sub-sector specific policies. Policies must counter traditional reluctance to arrest suspects in domestic violence cases and must ensure that the burden of arrest is not placed on the survivor. Pro-arrest policies should be part of a coordinated multi-agency approach in order to ensure that the survivor will not be disempowered by the policies in question.<sup>50</sup> For example, sub-sector policies can stipulate clear limits on the withdrawal of violence cases by prosecutors. Policies should also provide guidance on how to deal with survivors who face risks to their safety and security.

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1. Parties shall take the necessary legislative and other measures to adopt and implement State-wide effective, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of this Convention and offer a holistic response to violence against women.
  2. Parties shall ensure that policies referred to in paragraph 1 place the rights of the victim at the centre of all measures and are implemented by way of effective co-operation among all relevant agencies, institutions and organisations.
  3. Measures taken pursuant to this article shall involve, where appropriate, all relevant actors, such as government agencies, the national, regional and local parliaments and authorities, national human rights institutions and civil society organisations.

Source: Council of Europe, [Convention on Preventing and Combating Violence against Women and Domestic Violence](#), Art. 7, 11 May 2011, Council of Europe Treaty Series No. 210.

- **Inter-agency policies:** Criminal justice institutions must also partner and ensure cross-synergies with non-justice institutions such as ministries of health, education, civil/vital registration, NHRIs and CSOs. For example, a national system of compulsory, accessible and free birth registration is vital for verification and prevention of harmful practices, including child marriage. In some countries NHRIs are mandated to consider individual complaints and petitions and carry out investigations, including those submitted on behalf of or directly by women and children, in a confidential, gender-sensitive and child-friendly manner. Educational and health institutions

should be informed about the importance of reporting actual incidents of violence or the risk of such incidents. Furthermore, prevention and response to violence entails the provision of universal, free and compulsory primary school enrolment and ensuring regular attendance, discouraging dropping out, the elimination of existing gender disparities and supporting access for the most marginalized girls, including those living in remote and rural communities. In implementing these obligations, consideration should be given to making schools and their surroundings safe, friendly to girls and conducive to their optimal performance.<sup>51</sup>

- **Crime prevention:** Crime prevention should be at the centre of every strategy to end violence against women. Interventions should be multisectoral and must address the root causes of violence and de jure and de facto discrimination against women in all spheres of life. It should involve a wide range of stakeholders such as communities, religious and community leaders, civil society and women's organizations, men, boys, young people, the media and the private sector. Interventions must include addressing attitudes and behaviours which cause and escalate violence, including the reform of gender stereotypical educational curricular and promoting women's safety in communities.<sup>52</sup>

### 2.3.1 Typical programming challenges/opportunities

- The lack of attention to multiple and intersecting forms of discrimination that women face often means that policies and programmes for combating violence against women are not responsive to the needs and experiences of marginalized and excluded women.
- Cutbacks in social services due to austerity measures have produced negative impacts on women seeking violence support services. As a result, despite the existence of NPAs or laws that address violence against women, States have generally not been able to allocate adequate resources for their implementation.
- Despite increasing efforts, insufficient attention has been focused on preventing the occurrence of violence against women and girls; in this context, persisting discriminatory social norms and gender stereotypes remain major obstacles to eliminating violence against women.

### 2.3.2 Programming considerations and options

Use broader national development plans and justice and security sector strategies as hooks and entry points for financing NPAs and making them visible.

- The overall policy environment on ending violence against women could be strengthened by anchoring prevention and response in broader policy frameworks, such as national development plans and health, education, security and justice policies.
- In this context, NPAs can be designed as the more detailed operational frameworks for violence prevention and elimination, with specific indicators and budget lines in national development plans and strategies to ensure that violence against women is not marginalized in overall national development and justice sector planning and budgeting.

Limited State resources and lack of political will pose significant challenges for implementing relevant policy frameworks

Ensure cross-sectoral engagement and allocate resources to sectors which support prevention, mitigation and remedial actions on violence

- State commitment to the implementation of violence legislation (e.g., legislation related to human trafficking, domestic violence, FGM/C) should be expressed through implementation arrangements and specific budgetary allocations at national and local levels.
- Integrate the cost of violence interventions in justice and security sector strategies and create budget lines for them in the national budget.

Work with States to ensure that criminal justice policies effectively respond to violence against women, and empower criminal justice actors to better implement their mandates across the entire justice chain. This can be undertaken through:

- The development of justice and security sector plans involving a range of State and non-State stakeholders that deal with one or more violence situations.
- Enhancing regular communication and integrated approaches to working together and partner with other groups outside of the criminal justice system. Coordination minimizes fragmentation across criminal justice agency mandates, and ensures that decisions that are made throughout the criminal justice process take into account the interests of the agencies involved.<sup>53</sup> Due consideration should be given to the mandate of each institution and service provider, with a view to promoting synergies during and at various stages of the process.<sup>54</sup>
- Encouraging and supporting interdepartmental cooperation through inter-agency working groups/committees, memoranda of understanding among justice actors and systems for the regular exchange of information. Clear mechanisms must be put in place for coordination of activities and to ensure open lines of communication and decision-making.

### 3.0 Creating effective, accountable and gender-responsive justice institutions

To secure the rights provided for in international law, constitutions and legislation, programming must consider whether justice and security sector institutions are equipped to prevent and respond to violence, including facilitating women’s ability to navigate across the justice chain. Process matters for how survivors experience justice: the manner in which they are treated when accessing services and the information they receive along the way will, in the end, play a significant role in determining justice outcomes. For this reason, justice and security sector institutions which deal with different forms of violence must meet the criteria of being available, accessible, able to provide appropriate and enforceable remedies, good quality and accountable.



Above: Nepal. Girl in a UNICEF-supported child-friendly space in a camp for earthquake-displaced people in the town of Charikot. © UNICEF/Brian Sokol.

Effective, accountable and gender-responsive justice institutions are critical pillars for preventing and responding to violence against women

## 3.1 Availability

CEDAW [General Recommendation No. 33 on Women's Access to Justice](#) (CEDAW GR 33) observes that availability in relation to cases of violence against women should be aimed at securing appropriate services such as “financial aid, crisis centres, shelters, hotlines and medical, psychosocial and counselling services”.<sup>55</sup>

### 3.1.1 Typical programming challenges/opportunities

- Rural and remote communities tend to be deprived of comprehensive justice services, impacted by seasonal cycles (e.g., rainy seasons), limited infrastructure (e.g., poor roads and physical structures), high costs of transportation and difficulties in attracting highly-skilled personnel.
- Fragmentation and lack of comprehensiveness of justice services across justice and security sector institutions due to inadequate coordination of the criminal justice sector.
- Although CSOs play an important role in the provision of services to survivors of violence, many are constrained by budget cuts. In some countries, CSOs have had their licences revoked based on a decision by the State to curb their activities.
- Related to the above, the Special Rapporteur on violence against women, its causes and consequences notes that “many States tend to perceive the establishment of shelters or support for non-governmental organizations running shelters as voluntary commitments and not as part of their human rights obligations based on international human rights treaties. This situation is related to the lack of full incorporation and implementation of CEDAW and the failure to adopt comprehensive and holistic approaches to integrated services to combat and prevent violence against women.”<sup>56</sup>

### 3.1.2 Programming considerations and options

Consider innovative approaches to service delivery, such as:

- The establishment of mobile sexual violence courts and legal aid clinics, “one-stop” centres, remote or settlement-based help desks and free or subsidized hotlines including mobile phone devices that are appropriate to the local context. These can extend justice services to remote areas, improve crime reporting among women, enhance legal aid delivery and lead to the reduction of attrition.

Support the establishment of specialized services such as:

- Dedicated integrated arrangements in which prosecutors, police, judges and social services are coordinated in their decisions and approaches to tackling situations of violence. This should be coupled with integrated and specialized violence institutions such as prosecution offices, police units and courts.
- Supporting lawyers, police, judges and other justice actors to develop expertise when dealing with cases of SGBV to improve the responsiveness of the system to reduce delays and attrition.

The availability of justice institutions determines whether women survivors of violence can be protected in a timely manner

Services tend to be fragmented and concentrated in urban areas

Innovative interventions such as mobile courts, “one-stop” centres, specialized institutions and a comprehensive package of services can address gaps in service delivery

### Take into account global commitments.

- The [Agreed Conclusions of the 2013 CSW on the elimination and prevention of all forms of violence against women and girls](#) call for multidisciplinary and gender-sensitive preventive and protective measures, such as emergency barring orders, protection orders and access to shelters, in the context of strengthening multisectoral services, programmes and responses to violence against women. These include State and independent women’s shelters and counselling centres, 24-hour hotlines, social aid services, “one-stop” centres, child services and public housing services to provide low-threshold, easily accessible and safe assistance for women and children, as well as protection and support.
- Other important essential services include pregnancy testing, emergency contraception, abortion services, treatment for sexually transmitted diseases, treatment for injuries, post-exposure prophylaxis and psychosocial counselling for survivors of sexual violence. These are provided by particular government bodies, departments or ministries with specific mandates to prevent and address violence against women.
- The Istanbul Convention requires that States provide “victims with appropriate support services so that their rights and interests are duly presented and taken into account”.<sup>57</sup> Professional services, including interpretation and translation, must be offered by individuals who are qualified and who appear to be and are impartial. It should be noted that these services are critical not only in the legal context (e.g., at hearings, when giving testimony and providing affidavits), but also when working with health-care providers and social workers.
- The [Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice](#)<sup>58</sup> call on States to establish, fund and coordinate a sustainable network of accessible facilities and services for emergency and temporary residential accommodation, health services, including counselling and psychological care, legal assistance and other basic needs for women and their children who are survivors of violence or who are at risk of violence.
- While services can be provided by either the State or by non-State organizations, the obligation is on the State to ensure the provision of comprehensive, quality and non-discriminatory services countrywide. Some of the recommended standards for specific forms of services are highlighted in Box 3.2.

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#### **BOX 3.2 Minimum standards of availability of support services for survivors**

Take effective measures to protect women against secondary victimization in their interactions with law enforcement and judicial authorities, and consider establishing specialized gender units within law enforcement, penal and prosecution systems.

One national women’s phone hotline where all complainants/survivors of violence may get assistance by phone around the clock and free of cost from where they may be referred to other service providers; one shelter/refuge place for every 10,000 inhabitants, providing safe emergency accommodation, qualified counselling and assistance in finding long-term accommodation; one women’s advocacy and counselling centre for every 50,000 women,

which provides proactive support and crisis intervention for complainants/survivors, including legal advice and support, as well as long-term support for complainants/survivors, and specialized services for particular groups of women (such as specialized services for immigrant survivors of violence, for survivors of trafficking in women or for women who have suffered sexual harassment at the workplace), where appropriate; one rape crisis centre for every 200,000 women; and access to health care, including reproductive health care and HIV prophylaxis.

Sources: CEDAW GR 33, para. 51(c) and Division for the Advancement of Women (DAW)/DESA, [Handbook for Legislation on Violence against Women](#), p. 31, (United Nations publication, Sales No. E.10.IV.2).

## 3.2 Accessibility

Justice institutions must be physically, geographically, financially and linguistically accessible to women as a basic precondition for a case of violence to be reported. In addition, these same conditions must be present throughout the justice chain to ensure that a case is effectively initiated and concluded. For instance, women who experience varied forms of disabilities (see Module 1) must be assured that they can gain access to justice institutions in ways that address their rights and needs in line with United Nations General Assembly Resolution 61/106, [Convention on the Rights of Persons with Disabilities](#). Indigenous and minority women must have their linguistic and cultural needs met in accordance with United Nations General Assembly Resolution 61/295, [Declaration on the Rights of Indigenous Peoples](#) and United Nations General Assembly Resolution 47/135, [Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities](#). Information to survivors on how and where to locate and utilize justice services (e.g., courts and shelters) is also integral to accessible justice services.

### 3.2.1 Typical programming challenges/opportunities

- Although protection from violence, investigation, prosecution and redress are functions of the State, women often incur out-of-pocket expenses related to funding their own travel as well as that of witnesses. Compared to civil and family proceedings, the due process that is afforded to perpetrators often leads to criminal cases proceeding at a slow pace. Upholding the rights of perpetrators is an essential feature of criminal justice. Therefore, the potential for such due process rights to prolong criminal cases needs to be factored into programme design.
- In most countries, legal aid resources are directed to perpetrators of crime. According to the UNODC and UNDP [Global Study on Legal Aid, Global Report](#), only 61 per cent of United Nations Member States analysed indicated that legal advice and court services are provided in all legal proceedings to female survivors of violence.<sup>59</sup> This means that survivors of gender-based violence will most likely not have access to such services and even when they do, such services may not always be sufficient to address the specific needs and circumstances of survivors.
- The complexity of actors and institutions involved in the administration of justice can lead to case attrition, especially when accommodation for the varying needs of women is not made and when there is limited information provided to women about how to navigate the system.

As a protective measure, survivors of violence should be able to access justice within reasonable proximity

Survivors of violence incur direct and indirect costs when seeking protective and responsive measures from justice institutions and may not be eligible for legal aid because in practice such services are more readily available to perpetrators



Above: Kazakhstan. Woman and her children at a crisis centre in Temirtau. © UN Women.

### 3.2.2 Programming considerations and options

Ensure that State regulations, procedures and practice allow survivors to access legal services.

- As noted in Module 1, legal services are broader than legal aid. The [Essential Services Package for Women and Girls Subject to Violence, Core Elements and Quality Guidelines](#) defines it to “include legal aid as well as legal services provided by prosecutors to victims, particularly as in some jurisdictions the victim does not have separate standing in criminal proceedings.”<sup>60</sup>
- The [Handbook for Legislation on Violence against Women](#) recommends that court support should include the right to be accompanied and represented by a specialized complainants/survivors’ service and/or an intermediary, free of charge and without prejudice to their case, as well as access to service centres in the courthouse to receive guidance and assistance in navigating the legal system.<sup>61</sup>
- The United Nations General Assembly Resolution 67/187, [United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems](#), provides that States take applicable and appropriate measures to ensure the right of women to access legal aid, including: (a) introducing an active policy of incorporating a gender perspective into all policies, laws, procedures, programmes and practices relating to legal aid to ensure gender equality and equal and fair access to justice; (b) taking active steps to ensure that, where possible, female lawyers are available to represent female suspects, accused and prisoners; and (c) providing legal services, including translation of legal documents and court support services in all legal proceedings to all women who have been affected or involved in crime to ensure access to justice and avoid secondary victimization.<sup>62</sup>

Programming could provide training to justice actors on violence against women, support the establishment of specialized services and provide legal aid



- Free legal services must be complemented by free health services (e.g., for medical examinations and treatment), psychosocial support and counselling.

### 3.3 Good quality

Indicators of good quality include the ability of the criminal justice system to guarantee privacy, safety and fair proceedings to survivors and their witnesses. Stereotyping and gender bias among justice actors can significantly impact their ability to deliver impartial services to survivors of violence as well as the resilience of survivors to exercise their rights throughout the course of a case that is pending at any point of the justice chain as described in Box 3.3.

#### **BOX 3.3 The nature and impact of stereotyping and gender bias on women's access to justice**

Stereotyping and gender bias in the justice system have far-reaching consequences for women's full enjoyment of their human rights. They impede women's access to justice in all areas of law, and may have a particularly negative impact on women victims and survivors of violence. Stereotyping distorts perceptions and results in decisions based on preconceived beliefs and myths rather than relevant facts. Often, judges adopt rigid standards about what they consider to be appropriate behaviour for women and penalize those who do not conform to those stereotypes. Stereotyping also affects the credibility given to women's voices, arguments and testimony as parties and witnesses. Such stereotyping can cause judges to misinterpret or misapply laws. This has far-reaching consequences, for example, in criminal law, where it results in perpetrators not being held legally accountable for violations of women's rights, thereby upholding a culture of impunity. In all areas of law, stereotyping compromises the impartiality and integrity of the justice system, which can, in turn, lead to miscarriages of justice, including the revictimization of complainants.

Judges, magistrates and adjudicators are not the only actors in the justice system who apply, reinforce and perpetuate stereotypes. Prosecutors, law enforcement officials and other actors often allow stereotypes to influence investigations and trials, especially in cases of gender-based violence, with stereotypes undermining the claims of the victim/survivor and simultaneously supporting the defence advanced by the alleged perpetrator. Stereotyping can, therefore, permeate both the investigation and trial phases and shape the final judgement.

Source: CEDAW GR 33, paras. 26-27.

#### 3.3.1 Typical programming challenges/opportunities

- Myths and gender stereotyping are major obstacles to creating high quality justice services.
- Improving the quality and capacity of justice institutions to deal with violence against women is a long-term process which requires corresponding long-term commitments in financial and human resources.
- Procedures and standards to protect the privacy of women petitioners may not be in place. In the context of violence against women, this lack of privacy can expose survivors to reprisals.

Good quality justice services are those which respond to the needs of survivors and ensure that justice institutions are equipped to address such needs on a continuous basis

The quality of justice must be assured at all levels, which requires long-term investment

- The absence of a culture of administrative data collection among justice and security sector institutions impedes the ability of agencies to compare progress in administering justice to survivors over time and therefore to conduct an assessment of areas for improvement.

### 3.3.2 Programming considerations and options

Ensure that systematic and ongoing gender-sensitive trainings are available.

- Training should focus on imparting skills to address the varied forms of violence that women face and should be provided to all sectors—the police, investigators, forensic experts, public prosecutors, judges, lawyers, parliamentarians, health workers, education professionals, social workers and asylum and immigration authorities.<sup>63</sup>
- The training should ensure that staff are gender-sensitive in their approach to addressing the rights and needs of survivors. The curriculum should include awareness of applicable human rights standards and norms; the causes, nature and extent of violence; challenging myths around SGBV; the effects of violence on survivors; the needs of survivors; survivors' experience with the justice system; and addressing the needs and rights of women who face various forms of intersecting discrimination.
- These trainings should aim at changing the attitudes and behaviours of relevant justice actors towards survivors of violence by addressing bias, stigma and the perception and treatment of violence as a private matter.
- Trainings can be bolstered through integrated training sessions that include a cross section of justice and security sector actors and CSOs in the field of justice delivery, with the goal of strengthening inter-agency dialogue and appreciation of the benefits of cross-sectoral collaboration.
- The impact of training must be monitored on a regular basis through assessments of the types of decisions being made by justice actors and how such decisions are impacting on attrition and conviction rates.

To assess whether institutions are providing good quality services to survivors of violence, determine whether:

- Violence-related cases are dealt with in a timely manner. Technical assistance to partner institutions should aim at developing measures for timely and expeditious legal proceedings and fast-tracking of specific cases and/or for specific groups of women, where appropriate.
- Coordination mechanisms consisting of representatives of the justice, social service and health-care sectors and CSOs exist, including members from marginalized groups and other relevant stakeholders.
- Attrition rates have reduced or increased and the reasons for such trends.
- Survivors are treated or examined by a forensic doctor without requiring the consent of another person or party, such as a male relative.<sup>64</sup>
- Continuous improvement by sectors, informed by regular monitoring and evaluation, is being undertaken to deliver quality services to women and girls experiencing

violence, relying on collection, analysis and publication of comprehensive data on violence against women and girls in formats that can be used to assess and promote the provision of quality services.<sup>65</sup>

- Restorative justice processes offer the same or greater measures for protection of survivors' safety as is expected in criminal proceedings. Factors to examine include whether the case has been assessed as low risk to the survivor's safety; the survivor has been fully informed and consented to the process; and referrals to restorative justice have been made following perpetrators being charged with the crime.<sup>66</sup>
- Medical personnel are trained to detect the physical and psychosomatic presentations of various forms of violence, so that they can discretely provide the necessary care or referral to which the survivor is entitled. Training must also extend to the ability to interpret the subtle ways in which different cultures communicate abuse, especially sexual abuse and wife beating. Referral systems should link medical personnel to the criminal justice system and service providers such as CSOs, which provide various support and outreach services.
- Medical rehabilitation programmes are based on a gendered understanding of harms suffered to enable the full treatment and recovery of female and male survivors including survivors of sexual violence, those with gynecological injuries and children born due to sexual violence and enslavement. Programmes emerging after the transitional justice phase should also recognize the geographic and financial inaccessibility for many survivors requiring surgical rehabilitation, including for fistula repair and other costly and specialized treatment.
- Referral systems across institutions are supported by appropriate protocols and documentation. For example, a survivor of violence should be provided with a Police Form by the police to attend a medical facility for a medical examination which could be used in evidence as proof of the crime. Such Forms must be easy to fill in by medical personnel and should contain appropriate sections to guide a court of law in appreciating the circumstances of the crime and the impact that it had on the survivor.

#### Support systems reform and capacity development.

- Systems analysis can be undertaken to assess the causes of backlogs and delays in both the broader justice system as well as in specialized institutions and to understand the most effective interventions or reforms needed to speed up justice processes and proceedings. These may include simplifying procedural rules, hiring more judicial officers and establishing special courts to adjudicate matters pertaining to violence against women.
- Building the sensitivity and capacity of justice system actors is important for ensuring fair and meaningful access to justice for survivors. Enforcement of violence legislation depends on the capacity of the police (including police recruits, front-line police, police working in management and administrative roles), the prosecutor and the judiciary (including judges, courtroom personnel and clerks) to understand the nature and dynamics of violence against women, to respond to survivors appropriately and sensitively and to understand legislation fully in order to implement it as intended.

Analyse institutional barriers, including processes and behaviours among justice actors

Effective remedies instill confidence in justice institutions among survivors of violence and their families and prevent future acts of violence by serving as a deterrent

Remedies for acts of violence against women are multifaceted and can cut across criminal, family and civil domains

### 3.4 Remedies

Survivors of violence are entitled to prompt redress for the harm that they have suffered in line with international standards and norms. A range of remedies may be applicable in violence-related cases. They include restitution (reinstatement); compensation (whether provided in the form of money, goods or services) and rehabilitation (medical and psychological care, social and health services including sexual, reproductive and mental health for complete recovery); satisfaction; and guarantees of non-repetition. Remedies should be adequate, promptly attributed, holistic and proportionate to the gravity of the harm suffered and should take account of the survivor's agency, wishes and decisions, safety, dignity and integrity.<sup>67</sup>

Typically, criminal justice processes do not adequately compensate survivors for harm caused. For this reason, survivors can also pursue claims in a civil court for damages and/or compensation as appropriate. Protection orders (also known as restraining/non-molestation orders) can be granted by a court, the police or other authorized person to prohibit a perpetrator from harming, contacting or harassing the affected person or from possessing weapons.<sup>68</sup>

States are also expected to establish specific reparations funds, administrative reparations schemes (without prejudice to survivors' rights to seek judicial remedies) and transformative reparations programmes that help to address the underlying discrimination or disadvantage which caused or contributed significantly to the violation.<sup>69</sup>

Survivors of conflict-related sexual violence face considerable obstacles in obtaining access to effective remedies, including reparations. The devastating physical and psychological impact of sexual violence, compounded by the stigma attached to it, often prevents survivors from seeking or obtaining redress due to fear of ostracization by families and communities. Ensuring that reparations are just and adequate requires a full understanding of the gendered nature and consequences of the harm suffered for both males and females. In addition, consideration of gender inequalities in operationalizing reparations should be undertaken to ensure that reparations provisions do not exclude, marginalize or penalize women or men. Gender-based discrimination can be compounded by discrimination on other grounds, including actual or perceived sexual orientation or gender identity, ethnicity, race, age, political affiliation, class, caste, marital status, nationality, religion, disability or other status, placing certain groups of individuals at even greater disadvantage.

The majority of women will most likely not receive appropriate remedies and reparations from transitional justice mechanisms, even where such mechanisms are well functioning. Therefore, justice programmers should be especially attentive to ensuring that justice and security systems and institutions which are (re)established in the transformation and development phases are attuned to the unresolved nature of violations suffered, and are capable of ensuring these women's rights are upheld moving forward.

The [Guidance Note of the Secretary-General, Reparations for Conflict-Related Sexual Violence](#) provides a policy and operational perspective for United Nations engagement in the area of reparations for survivors of SGBV. Also see United Nations General Assembly Resolution 60/147, [Basic Principles and Guidelines on the Right to a Remedy](#)

and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. The following principles provide guidance on the work of the United Nations, in support of States' initiatives to design and implement reparations:

1. Adequate reparation for survivors of conflict-related sexual violence entails a combination of different forms of reparations.
2. Judicial and/or administrative reparations should be available to survivors of conflict-related sexual violence as part of their right to obtain prompt, adequate and effective remedies.
3. Individual and collective reparations should complement and reinforce each other.
4. Reparations should strive to be transformative, including in design, implementation and impact.
5. Development cooperation should support States' obligation to ensure access to reparations.
6. Meaningful participation and consultation of survivors in the mapping, design, implementation, monitoring and evaluation of reparations should be ensured.
7. Urgent interim reparations to address immediate needs and avoid irreparable harm should be made available.
8. Adequate procedural rules for proceedings involving sexual violence and reparations should be in place.<sup>70</sup>

### 3.4.1 Typical programming challenges/opportunities

- Most remedies and reparations efforts around the world have failed to systematically incorporate the specific needs and concerns of women and girls.<sup>71</sup> For example, violence legislation may not provide for remedies or may not be fully aligned with international standards; domestic violence may not be viewed as a crime; and remedies for rape may only be understood in terms of addressing damage to the survivor's reputation and potential marriage prospects.
- The provision of remedies and the rehabilitation of survivors of violence tends to be viewed as a State's welfare obligation rather than from the perspective of women's agency and empowerment.
- Treaty bodies and regional human rights adjudicative mechanisms possess limited means of enforcing their decisions. States may be named and shamed through such instruments and processes but cannot be sanctioned for non-compliance with decisions and orders.
- In many societies, women are compelled to comply with community standards that prioritize family/community cohesion over individual accountability through informal mediation processes. It is also common for the police or other criminal justice officials to mediate incidents of domestic violence, or refer survivors to mediation processes that are not in line with international standards and norms.

Existing regimes which determine remedies may not take into account the particular experiences of survivors of violence

The provision of remedies should be guided by global standards and relevant laws, and justice institutions must ensure that remedies are fully enforced

Alternative dispute resolution is an inherently risky option for women, particularly when used in resolving violence cases

### 3.4.2 Programming considerations and options

Assess the extent to which existing remedies in both formal and informal systems address the needs and rights of survivors of violence. Issues to consider could include whether:

- Procedural and substantive aspects of the right of survivors to reparations are defined as broadly as possible within the national legal framework and where possible, considered as part of guidelines on sentencing and hearings.<sup>72</sup> The survivor's actual damages and costs incurred as a result of the crime are given as expansive a meaning as possible, including physical and mental damage as well as loss of social benefits and opportunities such as employment, education and health.<sup>73</sup>
- Various violence laws include provisions on monitoring of enforcement by specific State institutions and sanctions for breaches of protection and probation orders by perpetrators.
- Remedies include rehabilitation of survivors through measures such as medical and psychological care and other social services.<sup>74</sup>
- Offender rehabilitation programmes prioritize the safety of survivors. They must also be based on an assessment of the offender's suitability, provision for court supervision and court sanctions for breaches of court orders.<sup>75</sup> For effectiveness, rehabilitation programmes should be: adequately funded; equipped with trained staff to ensure timely monitoring and immediate enforcement; accredited with an organization that can solicit survivor feedback; and committed to working within a gendered structural analysis of violence against women, rather than a simplistic individualized process that addresses anger management.<sup>76</sup>
- "Intangible losses" arising from sexual violence are taken into account. This could include the social cost of a perceived loss of "purity" and accompanying ostracism from families and communities.
- Advocacy on the provision of remedies and rehabilitation of survivors of violence is based on the end goal of empowering women as rights-holders. For instance, the Special Rapporteur on violence against women, its causes and consequence, recommends that services such as shelters should be "places of empowerment for women. They should be oriented towards victims' rehabilitation and women's empowerment. Support should be given to help women live independently in long-term, sustainable, adequate housing and to guarantee their rehabilitation and empowerment. Shelters should never be used by the State as a form of protective custody and States should ensure that measures to guarantee women's safety are taken in full consultation with and the consent of the woman involved."<sup>77</sup>

### 3.4.3 Alternative dispute resolution

As noted earlier, family violence cases are routinely resolved informally as a result of custom and community pressures on women not to pursue formal recourses or seek punitive measures, especially against a spouse or intimate partner. This may however lead to further violations of women's rights and a culture of impunity because ADR processes are often informed by patriarchal values.<sup>78</sup> ADR increases the risk of secondary victimization in violence cases since it removes such cases from judicial scrutiny, presumes that both parties have equal bargaining power, reflects an assumption that both parties are equally at fault and reduces offender accountability.<sup>79</sup>

Standards and norms outlined in Box 3.4 discourage the use of ADR processes to address criminal acts against women.

#### **BOX 3.4 International guidance on ADR**

CEDAW GR 33 prohibits any ADR processes, including mediation and conciliation in relation to all forms of violence against women. CEDAW GR 35 further elaborates that the “use of those procedures should be strictly regulated and allowed only when a previous evaluation by a specialized team ensures the free and informed consent of victims/survivors and that there are no indicators of further risks to the victims/survivors or their family members. Procedures should empower the victims/survivors and be provided by professionals specially trained to understand and adequately intervene in cases of gender-based violence against women, ensuring adequate protection of the rights of women and children and that interventions are conducted with no stereotyping or revictimization of women. Alternative dispute resolution procedures should not constitute an obstacle to women’s access to formal justice.”

The CSW recommends that Member States “take the necessary legislative and/or other measures to prohibit compulsory and forced alternative dispute resolution processes, including forced mediation and conciliation, in relation to all forms of violence against women and girls”.

The Istanbul Convention prohibits “mandatory alternative dispute resolution processes, including mediation and conciliation, in relation to all forms of violence” that are covered by the Convention.

Sources: [CEDAW GR 33](#), para. 58(c); [CEDAW GR 35](#), para. 32(b); CSW 57, [Agreed Conclusions of the 2013 CSW on the elimination and prevention of all forms of violence against women and girls](#), sect. A(g), (4-15 March 2013); Council of Europe, [Convention on Preventing and Combating Violence against Women and Domestic Violence](#), Art. 48(1). DAW/DESA, [Handbook for Legislation on Violence against Women](#) recommends an explicit prohibition of mediation by law in all cases of violence against women, both before and during legal proceedings.

The example from Afghanistan (see Box A.3.7 in the Appendices), however demonstrates that there could be challenges in effective implementation of international standards at the national level.

Existing tools therefore provide practical measures for safeguarding a woman’s rights when she chooses ADR or when it is inevitable. United Nations ECOSOC Resolution 2002/12, [Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters](#) has established fundamental safeguards and minimum requirements, including those concerning the qualifications, training and assessment of facilitators and assurance that neither the survivor nor the offender should be coerced, or induced by unfair means, to participate in restorative processes or to accept restorative outcomes. In this context, procedures must be put into place to protect women from force, pressure or intimidation in matters of mediation or restorative justice. For example, the [Essential Services Package for Women and Girls Subject to Violence, Core Elements and Quality Guidelines](#) sets out the following minimum standards:

- The mediation is undertaken by trained and qualified mediators
- A validated risk assessment has determined that the woman is not at high-risk

Although international standards prohibit the use of ADR in the resolution of violence cases, national contexts, women’s views and progressive realization must be used as implementation benchmarks

- The victim/survivor is fully informed of the process and approves of and consents to the mediation
- The process offers the same or greater measures of protection of the victim/survivor's safety as the criminal justice process
- The perpetrator has accepted responsibility
- Sanction from a formal justice service provider is available<sup>80</sup>

In addition, “the Blueprint for Action: an Implementation Plan for Criminal Justice Systems to Prevent and Respond to Violence against Women” in [Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women](#) recommends that referral to the restorative justice process should only be made after the perpetrator has been charged with a crime and approval has been granted by the prosecutor or investigative judge.<sup>81</sup>

## 3.5 Accountability

In the context of criminal justice administration, accountability is maintained through the monitoring of institutions and personnel to ensure that they are functioning and that justice services are available, accessible, of good quality and that appropriate and effective remedies are provided to survivors.

### 3.5.1 Typical programming challenges/opportunities

- In comparison with household data, a culture of administrative data collection within justice and security sector institutions is less common due to the budgetary implications.
- In settings such as hospitals and schools, women and girls may not be willing to provide details on signs of abuse detected in the course of routine medical examinations or in other contexts.
- Impunity, executive interference and corruption among justice actors can significantly reduce the accountability of a system, and lead to resistance towards programming that is aimed at improving the functioning of systems and making them more effective for women to access justice.

### 3.5.2 Programming considerations and options

Invest in administrative data collection in family and domestic violence courts, with an emphasis on:

- Expedited docketing, caseload management and timely survivor notification for effective case management.
- Gathering information about the performance of justice institutions with respect to violence against women from stakeholders such as survivors, justice actors and women's organizations and making the needed adjustments based on this information to improve justice services. Monitoring can also contribute to improving the evidence base for violence against women, as at present limited data exists on the

Accountable justice institutions monitor their performance and standards continuously to ensure their effective response to violence

Political will is required for allocating resources to administrative data collection, as well as for tackling corruption

Programming should support States to establish systems of data collection, analysis and reporting





Above: Côte d'Ivoire. Student in class at a French-Arabic school in the town of Korhogo, in the South West of the country. © UNICEF/Frank Dejongh.

occurrence of violence against women or the responsiveness of justice systems to this violence.

- Strengthening data collection by evaluating the completeness and accuracy of vital registration and justice system data (e.g., from police, prosecution services, courts) on fatal and non-fatal violence, disaggregated by age, sex, homicide mechanisms and the survivor-perpetrator relationship. There should also be strengthening of data collection on referral for cases of violence to hospitals and clinics.
- Good practice institutional reporting with salient components. Reporting should be mandatory and regular, review in detail the measures adopted to implement violence-related legislation, demonstrate progress made towards the objectives of each adopted measure and identify obstacles to the full achievement of the objectives and establish a clear mandatory follow-up procedure to respond to identified gaps. The process should ensure that the reports are collated and centralized for review by a recognized State agency that is tasked with providing national direction based on the findings of such reports.<sup>82</sup>
- Consulting women's groups and CSOs to advocate for legislation, policies and programmes in the criminal justice system and "create supportive environments that encourage women to claim their rights, report crimes committed against them and actively participate in criminal justice processes, and take measures to prevent retaliation against women seeking recourse in the justice system."<sup>83</sup> This can include community meetings to discuss issues, concerns and ideas on the creation of gender-responsive justice institutions, systems and programmes, complaint and oversight mechanisms and enhanced transparency around priority setting, and resource allocation and feedback procedures. The results of these efforts can be used to inform law reform and changes within the justice, law and order sector.

The inclusion of women in legal reform processes is necessary for ensuring greater sensitivity to the needs of women survivors of violence and for supporting efforts to eliminate violence against women

Cultural barriers, weak political will, stigma or lack of agency can pose challenges for programming

- Designing specific regulations to ensure mandatory reporting of incidents of violence and abuse that professionals and other groups may encounter in their interaction with survivors. Individuals providing services for women and children, especially medical personnel and teachers, are uniquely placed to identify actual or potential survivors of harmful practices, taking into account survivor-centred rules pertaining to disclosure, privacy and confidentiality.
- Supporting oversight bodies such as parliaments and NHRIs to hold State bodies accountable for lack of compliance with international and domestic standards related to violence against women. Accountability can be further enhanced when stakeholders participate in the design, implementation and monitoring of such services.

## 3.6 Women participate in justice institutions

While increasing the number of women in justice institutions is no guarantee of a corresponding increase in women's access to justice, there is evidence to suggest that increasing the number of female judges, female police and other front-line justice sector officials can create more conducive environments for women in courts and make a difference to the outcome of sexual violence cases.<sup>84</sup> In a study of 39 countries, the presence of women police officers was shown to result in greater reporting of sexual assault.<sup>85</sup> In Liberia, after an all-women police unit was deployed, rates of reporting of gender-based violence and the recruitment of women into the police force increased.<sup>86</sup> Gender-responsive programming within the justice, law and order sector should therefore provide opportunities for the participation of women and girls, including survivors of violence across all phases of programme design, implementation and monitoring.

### 3.6.1 Typical programming challenges/opportunities

- Societal perceptions about the security sector often relegate women to secretarial and administrative functions. Specific positions are often regarded as inappropriate for women to occupy because they require appearing in public, working directly with men or working in roles traditionally reserved for men (e.g., crowd control). In addition, when women dominate institutions such as “one-stop” centres, their professional progress and promotion could be stalled or delayed due to the specialized nature of their duties and the perception that institutions established to address predominantly “women’s issues” are not part of the mainstream justice and security sector (see Section 4.1.6.1 of Module 1).

### 3.6.2 Programming considerations and options

Use evidence and research from household surveys and country assessments (see Module 1 and Module 5) to make a case for parity in operational and decision-making positions in the criminal justice system, using the following means:

- Working with government and related actors to shape and implement affirmative action targets or quotas as part of the broader affirmative action policy of the State to include women in formal justice sector institutions (e.g., policymakers, police officers, judges) in a sustained manner.

- Promoting women’s leadership in these institutions as an important component of recruitment, promotion and retention.
- Providing targeted professional development to women duty-bearers in institutions
- Promoting peer support mechanisms and associations among female policymakers, lawyers, judges, police officers and other stakeholders.
- Partnering with educational institutions (e.g., law schools, police academies, continuing legal education and training programmes) and professional associations (e.g., legal education boards, law societies, bar associations) to develop and implement strategies for encouraging female intake.
- Engaging with stakeholders to prepare and present recommended candidates for the consideration of justice and security sector appointment committees.
- Exploring avenues for promoting women’s inclusion in informal justice systems. Advocacy among traditional and religious leaders could include reforming the presumption that only men can hold leadership positions as Chiefs or Imams and in this context new norms and processes could be considered for selecting leaders.

Programming should explore avenues for promoting women’s inclusion in informal justice systems

## 4.0 Legally empowering women

The causes of harmful practices are multidimensional and include stereotyped sex-and gender-based roles, the presumed superiority or inferiority of either of the sexes, attempts to exert control over the bodies and sexuality of women and girls, social inequalities and the prevalence of male-dominated power structures. Efforts to change the practices must address those underlying systemic and structural causes of traditional, re-emerging and emerging harmful practices, empower girls and women and boys and men to contribute to the transformation of traditional cultural attitudes that condone harmful practices, act as agents of such change and strengthen the capacity of communities to support such processes.

Source: United Nations, CEDAW Committee and Committee on the Rights of the Child, [Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on harmful practices](#), para. 17, 14 November 2014, [CEDAW/C/GC/31-CRC/C/GC/18](#).

Gender-based violence is intrinsically linked to harmful gender stereotypes and attitudes. As a result, eliminating violence against women, and realizing the full positive impact that changes in the enabling environment can have, involves working to eliminate the views that underpin violence against women in the first place. What is more, exclusion in other spheres because of gender discrimination, like household decision-making and education, can result in women’s marginalization and put them at greater risk of violence. Therefore, empowering women and communities to recognize and address harmful stereotypes, and to participate in the decision-making processes and institutions that define their rights, is necessary for the elimination of violence against women.

Eliminating violence against women necessarily involves working to eliminate views and stereotypes that can lead to and underpin such violence

## 4.1 Women participate in legal reform processes

Ensure women's equal representation at all decision-making levels in national institutions and mechanisms, including in the armed forces, police, justice institutions and the transitional justice mechanisms (judicial and non-judicial) dealing with crimes committed during the conflict

Source: CEDAW GR 30, para. 46(b).

The voices of survivors of violence must be heard and reflected in legal reform processes. Programming should support coalition-building among stakeholders to sustain and make such processes effective

Safeguarding women's active participation in legal reform processes is a necessary step towards ensuring that such processes are sensitive to the needs of women survivors of violence, and that they work to effectively prevent and eliminate violence. Legal reform processes should aim at representing diverse interests, including those of women and survivors of violence, as they have insights that other stakeholders may not have. Women's participation in legal reform processes can contribute to the inclusion of specific provisions in constitutions and laws that serve to enable justice institutions and women themselves to pursue appropriate remedies. In Northern Ireland, for instance, the participation of the Northern Ireland Women's Coalition in party talks leading up to the Good Friday Agreement is credited with the inclusion of both women-specific and survivor-specific provisions in the final text.<sup>87</sup>

Beyond law reform, survivors of violence must not be treated as passive participants in proceedings affecting them. They must be informed of their role and the scope, timing and progress of the proceedings. Their views and concerns must be presented and considered at appropriate stages of the proceedings where their personal interests are affected. The [Essential Services Package for Women and Girls Subject to Violence, Core Elements and Quality Guidelines](#) highlights the need to provide survivors with an opportunity to articulate the physical and psychological impact of their experience of violence during the sentencing of the perpetrator. It furthermore allows survivors a role in sentencing through a broad range of methods that suit individual needs (e.g., written or oral victim impact statements or victim impact reports undertaken by experts such as social workers).<sup>88</sup>

### 4.1.1 Typical programming challenges/opportunities

- The culture of silence and stigma associated with violence tends to perpetuate the exclusion of the voices of survivors in legal and policymaking processes. In instances where survivors participate, there is often harmful media exposure and backlash. Survivors are therefore generally invisible in consultation processes as well as in the design, implementation and monitoring of violence laws and policies.
- The practice of allowing survivors to present impact statements in courts is absent from the criminal justice practice and culture of many countries.

### 4.1.2 Programming considerations and options

Amplify the voices and perspectives of women, encourage coalition and relationship-building by:

- Using the convening advantage of the United Nations to bring together lawmakers who have an interest in promoting criminal justice reform; women lawmakers who are strong advocates for laws and policies that address the needs of survivors; and

Women often lack voice and agency due to the general culture of silence surrounding violence. This can be addressed through dialogue and effective partnerships with the media

human rights defenders. Such relationships will help bolster women’s credibility and strengthen their inclusion in legal reform processes.

- Victim impact statements should be promoted as an integral part of legal proceedings and in addition, must be incorporated into violence laws and policies.

## 4.2 Support and partner with civil society organizations

As noted in the [Essential Services Package for Women and Girls Subject to Violence, Core Elements and Quality Guidelines](#), “civil society organizations, women’s groups, faith and community leaders often play a key role in mobilizing community efforts to raise awareness about the prevalence of violence against women and girls and the community’s role in responding to and preventing violence.”<sup>89</sup>

The legal empowerment of women is achieved by programming that supports women as rights-holders, and helps advocates and activists to claim their rights and achieve sustained change to laws and practices. These measures improve both the voice and agency of women, and lead to sustainable outcomes. Consultations with women’s groups should be initiated to develop programmes that identify and address obstacles, ensure that the context is right and guarantee protection from reprisals and ostracism as a result of advocacy.

Advocates, practitioners and human rights defenders can use best practice recommendations from the international and regional human rights systems to seek justice after violence has been committed and to build strategies to create and sustain structural change. These efforts should include innovative strategies to inform girls and women of their rights and to train and sensitize officials and politicians. Children and young people can receive education on equality between men and women, non-violent conflict resolution and age-appropriate comprehensive sexual education.<sup>90</sup>

Advocacy can include measures by CSOs to improve effective reporting and investigation of crimes, including by drawing attention to systemic barriers such as: delayed or lack of attendance by police on the scene; justice actors insisting on corroboration of women’s testimony by other witnesses before filing a report; police or hospital staff requesting money from survivors to provide forms, reports or medical tests or to pay for fuel to interview witnesses; justice actors failing to properly file incident reports, or interview or apprehend the perpetrator; abuse of police bail including bribery; and other considerations. Advocacy and public interest litigation are expensive and slow, but often represent the only alternative for achieving structural and lasting change in circumstances where the State cannot or will not fulfil its obligation to address violence against women.

### 4.2.1 Typical programming challenges/opportunities

- Both CBOs and CSOs have limited human resources and financial management capacity. This can be a challenge for ensuring effective compliance with United Nations requirements on accounting, procurement and recruitment.

CSOs are important agents of change. They are often familiar with the terrain and can inform locally relevant interventions

CSOs may not possess the requisite capacities due to limited resources

- It can be difficult to identify which organization is the best fit based on programmatic priorities alone, particularly when there are multiple (or even limited) organizations working on similar initiatives.

## 4.2.2 Programming considerations and options

Build the capacities of CSOs to strengthen knowledge and application of international standards and good practices aimed at increasing protections for women from violence.

This may include:

- Advocating for the protection of human rights defenders; monitoring their progress, success stories and the measures taken by the State to protect them.
- Strengthening the role of CSOs in the violence referral system by prioritizing funding and resources for their activities, including: legal services; the provision and maintenance of shelters; advocacy and legal awareness; research and strategic litigation; and complaints before international human rights bodies, including in terms of addressing impunity and the availability of remedies at the national and international levels.
- Supporting advocacy efforts of CSOs in the context of States' compliance with the judgements and recommendations of human rights treaty bodies and special procedures.
- South-South and North-South cooperation and sharing of experiences from other human rights defenders and CSOs on sustaining advocacy and resource mobilization.
- Fostering the development of networks of CSOs (including coalitions) at the national and regional levels, and supporting the development of strategic relationships with NHRIs.
- Promoting women-run media as a means of expanding safe and dedicated spaces for women to share their concerns on public platforms.

## 4.3 Education on women's rights

States parties have an obligation to challenge and change patriarchal ideologies and structures that constrain women and girls from fully exercising their human rights and freedoms. For women to overcome social exclusion and poverty, which increases their vulnerability to exploitation, harmful practices and other forms of gender-based violence, they need to be equipped with the skills and competencies that are necessary for asserting their rights, including autonomy in making informed decisions and choices about their own lives. In this context, education is an important tool for empowering women to claim their rights.<sup>91</sup> Female retention and completion of formal education and the prevalence of harmful practices are closely connected as literacy is needed for accessing information about existing law and justice systems.<sup>92</sup>

The State must deliver awareness-raising programmes to the public as well as among justice and security actors and other service providers for purposes of changing attitudes and supporting behaviour change. Community information and training sessions can also improve communications and trust, and increase the likelihood that community members will report violence.<sup>93</sup>



Above: Vietnam. A H'mong family in Sin Chai hill tribe in the village of Sapa. © UN Photo/Kibae Park.

Telecommunications form a critical part of measures to empower women and ensure that they have access to information in a timely and cost-effective way. SDG 5 Target 5(b) calls for States to enhance the use of enabling technology, in particular ICT, to promote the empowerment of women. One global study found that 93 per cent of women felt safer and 85 per cent felt more independent because of the security offered by owning a mobile phone.<sup>94</sup> However, care should be taken with regard to the impact of information technology on human rights defenders, monitoring staff and journalists who are engaged in investigations and monitoring activities that are politically sensitive or viewed as threatening, in which case, women can be placed at a heightened level of risk as a result of their activities.<sup>95</sup>

### 4.3.1 Typical programming challenges/opportunities

- Entrenched attitudes, behaviours and practices that support or condone violence and prevent survivors from accessing the formal legal system are pervasive across all societies.
- The culture of silence surrounding SGBV requires investments in appropriate communications strategies for different audiences.
- Cultural change is a long-term process which requires sustained programming for effectiveness. Similar to considerations for reforming informal law (see Section 2.2.2.2), these norms and values are drawn from deep-rooted community practices that require incremental change over a long period of time. Current funding and programme cycles are relatively short-term and may not sustain long-term intergenerational change.
- Weak political will among cultural agents to support changing attitudes and norms. Programming to prevent and address violence against women could be perceived

Interventions which aim at changing deep-rooted attitudes and behaviours require long-term investments

as threatening the power and influence of the cultural agents themselves and as a result they may be reluctant or resistant to change.

- Programming cannot assume that all women will rally behind efforts to eliminate violence against women, especially when practices are rooted in cultural norms. This is because women are not a monolithic group and may include individuals and groups who are not in favour of reforms.
- Cultural change is viewed as imposing external standards and norms. Therefore, if programming is not executed in a culturally appropriate way, and with local dialogues, it risks facing pushback from communities.

### 4.3.2 Programming considerations and options

Disseminate information on the impact of violence on women and society at large. Programming could:

- Conduct mass information campaigns about women's rights and violence against women. These outreach campaigns can take the form of open-air information sessions, radio outreach, community dialogues or engagement with youth clubs, women's groups, traditional and religious structures and men and boys.<sup>96</sup> To ensure cultural appropriateness and maximum impact, community members should be consulted on the design of both content and approach for these campaigns.<sup>97</sup>
- Inform lawyers, activists and other human rights defenders about relevant international and regional human rights laws and standards on the measures that States are required to take to prevent and provide remedies for violence, and to hold accountable those responsible for acts of domestic and family violence.
- Implement age-appropriate human rights education programmes in schools to sensitize young children of all sexes on the unacceptability of violence in schools and society in general. The design of textbooks must be revised to ensure that they do not perpetuate stereotyped views of women and girls. Furthermore, teachers must be sensitized on approaches to teaching that convey the needs and rights of women and girls among both teachers and students. The conduct of teachers, as well as the content of teaching and learning, must promote gender equality and women's empowerment (see CEDAW, Article 10 (c)).

Identify and engage gatekeepers to define a roadmap for addressing norms and practices which drive or serve as risk factors for violence against women.

- Invest time and resources into developing a strategy for cultivating local buy-in that is informed, shaped and executed in partnership with CSOs, professional associations and other women-driven entities.
- Work with community and religious leaders who possess the capacity and legitimacy to mobilize their communities for dialogue and reform of harmful norms.
- Promote the visibility of women in senior authority roles as a mechanism for driving social change.
- Identify features of informal laws which are supportive of combating violence against women and use them to frame information advocacy messages and develop pathways for reforming local norms.<sup>98</sup>



Explore opportunities presented by telecommunications technology to increase reporting and enhance security.

- This could include a national phone hotline service and/or online information and chat services that are available 24/7.
- The confidentiality of these services should be a foundational concern, especially when using ICT systems that are not foolproof.

## 5.0 Considerations for crisis-affected contexts

c) Ensure that women, civil society organizations focused on women's issues and representatives of civil society are included equally in all peace negotiations and post-conflict rebuilding and reconstruction efforts; (d) Provide leadership training to women in order to ensure their effective participation in the post-conflict political processes.

Source: CEDAW GR 30, paras. 46(c)-(d).

**Consider the context:** Conflict exacerbates violence against women, and leaves them even more vulnerable to abuse, including rape (both generally and as a weapon of war), early and forced marriage and domestic violence. Women and girls' unique conflict-related harms demand redress, and importantly, there is a need to identify and transform the underlying and current conditions giving rise to those harms. Otherwise these conditions are likely to multiply such harms in their present and future. For instance, the CEDAW Committee finds that stateless women and girls face heightened risks of abuse in times of conflict because they do not enjoy the protection that flows from citizenship, including consular assistance, and also because many are undocumented and/or belong to ethnic, religious or linguistic minority populations.<sup>99</sup>

Additionally, justice systems often break down in times of conflict, leaving women few options for recourse when they have survived violence. Women are accordingly left in a double bind in crisis-affected contexts, as they are more likely to experience violent crimes and less likely to receive justice. Programming must therefore critically assess ways in which to respond to women's particular needs and vulnerabilities in conflict-affected settings. In moving from the transition to the transformation and resilience phases, the scope of access to justice programming tends to be limited by the human and material capacity of the formal legal system, which is often incapable of managing a series of violations so massive and systematic that they challenge the underlying legal order itself.<sup>100</sup> In addition, trust and confidence in public institutions may have waned, particularly in the context of the justice, law and order sector, which often fails to protect women in times of crisis.<sup>101</sup> The weak and patriarchal condition of the sector is especially felt by women and girls who are often significantly structurally, politically and symbolically disadvantaged.

**Operate in a continuum:** The IASC [Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing Risk, Promoting Resilience and Aiding Recovery](#) (Guidelines) is an important United Nations reference for assisting humanitarian actors and communities affected by armed conflict, natural disasters and other

Crisis situations contribute to the breakdown of protective institutions, such as the family and formal and informal justice institutions

humanitarian emergencies to coordinate, plan, implement, monitor and evaluate essential actions for the prevention and mitigation of SGBV across all phases of the humanitarian response.

The Guidelines underscore a duty among actors to protect those affected by the crisis, including protection from SGBV. It calls for effective coordination and action during the earliest stages of emergency preparedness and recommends that justice support and services must be available to women and girls. It furthermore determines that the goal of humanitarian action should be to: (a) reduce the risk of SGBV through prevention and mitigation strategies across all areas of humanitarian response from pre-emergency through to recovery stages; (b) promote resilience through strengthening of national and community-based systems that prevent and mitigate SGBV, and by enabling survivors and those at risk of SGBV to access care and support; and (c) aid recovery of communities and societies by supporting local and national capacity to create lasting solutions to the problem of SGBV.<sup>102</sup>

It is critical for programming to address the potential legal impediments to equality under the law.<sup>103</sup> Areas of concern should include inheritance law, land and property rights, child marriage and domestic violence. In many contexts, women are prevented from holding land or property titles through discriminatory formal and informal laws. Gender-responsive property restitution should include women's right to ownership of land, housing and other assets, and must be complemented by efforts at reforming social norms which prevent women from property ownership.<sup>104</sup>

As countries emerge from conflict into development, the justice process often precedes formal institutional (re)development, as the contours of institutional design are greatly influenced by developments that take place in advance. Therefore, as a State or community begins its transition away from a period of conflict or authoritarian rule, a gender-responsive process necessitates that measures are taken to address impunity with the active participation and engagement of female survivors of violence and their advocates at the earliest point possible. Crucial to a gender-responsive process is the explicit inclusion of women's access to justice as an underlying tenet within the justice, law and order sector mandates. Clear reference to women's access to justice in sector mandates affirms institutional obligations, and thereby places pressure on the State to proactively and consistently approach their work with a gender lens. At the same time, it provides women's rights activists with a foothold to advocate for greater inclusion, participation and oversight.

**Be sensitive to the needs and circumstances of survivors of SGBV:** It should be recognized that many survivors of specific violations, particularly sexual violence, may have chosen to remain silent about the harms that they endured during the crisis and rebuilding and reform stages, fearing that revealing the truth may potentially leave them worse off than silently suffering. Accordingly, avenues should remain open for them if they elect to receive services without being forced into public truth-telling.<sup>105</sup> Time limits on claiming reparation should not be unduly restrictive, evidentiary standards should be relaxed<sup>106</sup> and creative approaches should be employed to reach survivors who feel unable to access justice services. Critically, survivors should have recourse to technical assistance (such as trained counsellors and specialists) to help them with the administrative steps needed to obtain remedies or other forms of support. Beyond legal

Survivors of violence must receive protection, support and assistance across all stages of crisis, post-crisis and recovery

Survivors of violence may choose to remain silent about the harms they endured during conflict because trust in justice institutions has eroded

needs, efforts must be made to address the medical, psychosocial and economic needs of survivors. This will require access to appropriate reproductive and maternal health services (e.g., addressing pregnancies arising out of enslavement or other forms of sexual violence and exploitation during combat); provision of appropriate child support; assistance in claiming and rebuilding property (e.g., inherited land, existing farm land and places of residence); and long-term social protection where women are compelled to transition as heads of households.<sup>107</sup>

**Promote the participation of survivors:** Survivors must be involved in all aspects of peacebuilding, institutional reforms and constitutional and legislative reform processes. This can be done through well-coordinated outreach campaigns that ideally begin during the crisis and rebuilding phases and continue as the society begins to move into the transitional and transformation stages. Outreach is a two-way process that involves engaging with survivors and their representatives. It should uphold the dignity of survivors, forming part of a process that aims to strengthen their social recognition and acceptance, and is responsive to women and girls' high levels of illiteracy, poverty, poor access to transportation and financial institutions and the deep social fractures (gender, ethnic, language, class, religion, urban/rural or sub-regional differences) that impede their access to justice. Justice and security sector institutions should facilitate outreach by working together with survivor-led groups or CSOs that are known and trusted by survivors and marginalized communities.

**Sustain transitional justice and avoid slippage into impunity:** Programmes should proactively combat the tendency for SGBV to escalate in post-crisis contexts.<sup>108</sup> The shift of public violence into the private sphere frequently accompanies transitions to "peace"—as men project their aggression and hostility, and exploit the opportunity to experiment with the new-found boundaries of what can acceptably be done to women in domestic settings. As transitional justice and subsequent programming efforts seek to remedy the effects of prior harms, development partners and practitioners should ensure that implementation is accompanied by a series of substantive protection measures, which can help to ensure the prevention of and redress for widespread domestic (and broader gender-based) abuse in the aftermath of conflict.

**Support the implementation of the recommendations of Truth Commissions:** The CEDAW Committee has often been concerned that the recommendations of Truth and Reconciliation Commissions in relation to repatriations and post-conflict protective measures for women are not implemented, suggesting the need for sufficient funds be allocated to implementing such recommendations (e.g., reform of discriminatory formal and informal laws and the rebuilding of justice institutions from a gender perspective) for the effective and full rehabilitation, reintegration into society and compensation of women and girls affected by SGBV through reparations programmes.<sup>109</sup>

**Reparations:** As countries move out of conflict and into transition, transformation and development phases, it is critical that justice programmers are also aware of the remedies and reparations that are due to women. In the transitional period, most women will not have received remedies and reparations for the crimes and harms they suffered, even if transitional justice mechanisms are functional. Therefore, programmers should be especially attentive to ensuring that justice systems and institutions that are (re)established in the transformation and development phases are attuned to the

Survivors and their advocates should be fully engaged in all transitional, recovery and reconstruction efforts

Formal and informal justice institutions should build on transitional justice efforts, including Truth Commissions, to forestall further violations of women's rights

Reparations must be context-specific and relevant to the diverse needs and experiences of women

unresolved nature of violations suffered and are capable of ensuring that women's rights are upheld. In this context, it is important to bear in mind that not every country will decide to submit to a formal war crimes tribunal to address atrocities. Colombia, Guatemala and Uganda are using their respective regular courts to carry out this function.<sup>110</sup> In such instances, it becomes necessary for the United Nations system to provide comprehensive support to national justice systems to appreciate international standards related to reparations and ensure that such safeguards are fully reflected in domestic legislation and practice. Family reunification and proper burial of the dead is likely to take decades and will extend well beyond any transitional justice period. Therefore, one form of redress that often plays a critical role in post-conflict transition is the “search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed”.<sup>111</sup> Until these processes are undertaken, many survivors may remain in legal, cultural, emotional and/or spiritual turmoil.

# APPENDICES

## Appendix I

**TABLE A.3.1** Policy and human rights considerations related to ending violence against women in the SDGs, CEDAW GR 30 and CEDAW GR 33

SDG Targets and Indicators	CEDAW GR 30	CEDAW GR 33
<p>5.1 End all forms of discrimination against all women and girls everywhere</p> <p>5.1.1 Whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex</p> <p>5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation</p> <p>5.2.2 Proportion of women and girls aged 15 years and older subjected to sexual violence by persons other than an intimate partner in the previous 12 months, by age and place of occurrence</p> <p>5.3 Eliminate all harmful practices, such as child, early and forced</p>	<p><b>Creating an enabling environment for women’s access to justice</b></p> <p>38(a) Prohibit all forms of gender-based violence by State and non-State actors, including through legislation, policies and protocols; (b) Prevent, investigate and punish all forms of gender-based violence, in particular sexual violence perpetrated by State and non-State actors, and implement a policy of zero tolerance; ... (e) Allocate adequate resources and adopt effective measures to ensure that victims of gender-based violence, in particular sexual violence, have access to comprehensive medical treatment, mental health care and psychosocial support; ... (g) Invest in technical expertise and allocate resources to address the distinct needs of women and girls subject to violence, including the impact of sexual violence on their reproductive health;</p>	<p>51(a) Exercise due diligence to prevent, investigate, punish and provide reparation for all crimes committed against women, whether by State or non-State actors; (b) Ensure that statutory limitations are in conformity with the interests of the victims; ... (d) Take appropriate measures to create supportive environments that encourage women to claim their rights, report crimes committed against them and actively participate in criminal justice processes, and take measures to prevent retaliation against women seeking recourse in the justice system. Consultations with women’s groups and civil society organizations should be sought to develop legislation, policies and programmes in those areas; (e) Take measures, including the adoption of legislation, to protect women from Internet crimes and misdemeanours; ... (h) Review rules of evidence and their implementation, especially in cases of violence against women, and adopt measures with due regard to the fair trial rights of victims and defendants in criminal proceedings, to ensure that the evidentiary requirements</p>

<p>marriage and female genital mutilation</p> <p>5.3.1 Proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18 5.a Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws</p> <p>5.a.1 (a) Proportion of total agricultural population with ownership or secure rights over agricultural land, by sex; and (b) share of women among owners or rights-bearers of agricultural land, by type of tenure</p> <p>5.c Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels</p> <p>Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels</p>	<p>are not overly restrictive, inflexible or influenced by gender stereotypes;</p> <p><b>Effective, accountable and gender-responsive justice institutions</b></p> <p>38(c) Ensure women's and girls' access to justice; adopt gender-sensitive investigative procedures to address gender-based violence, in particular sexual violence; conduct gender-sensitive training and adopt codes of conduct and protocols for the police and military, including peacekeepers; and build the capacity of the judiciary, including in the context of transitional justice mechanisms, to ensure its independence, impartiality and integrity; (d) Collect data, and standardize data collection methods, on the incidence and prevalence of gender-based violence, in particular sexual violence, in different settings and with regard to different categories of women; ... (f) Develop and disseminate standard operating procedures and referral pathways to link security actors with service providers on gender-based violence, including one-stop shops offering medical, legal and psychosocial services for sexual violence survivors, multipurpose community centres that link immediate assistance to economic and social empowerment and reintegration, and mobile clinics;</p>	<p>are not overly restrictive, inflexible or influenced by gender stereotypes;</p> <p>16(b) In cases of violence against women, ensure access to financial aid, crisis centres, shelters, hotlines and medical, psychosocial and counselling services;</p> <p>29(f) Provide capacity-building programmes for judges, prosecutors, lawyers and law enforcement officials on the application of international legal instruments relating to human rights, including the Convention and the jurisprudence of the Committee, and on the application of legislation prohibiting discrimination against women.</p> <p>51(c) Take effective measures to protect women against secondary victimization in their interactions with law enforcement and judicial authorities, and consider establishing specialized gender units within law enforcement, penal and prosecution systems; ... (i) Improve the criminal justice response to domestic violence, including through recording of emergency calls taking photographic evidence of destruction of property and signs of violence and considering reports from doctors or social workers, which can show how violence, even if committed without witnesses, has material effects on the physical, mental and social well-being of victims; (k) Develop protocols for police and health-care providers for the collection and preservation of forensic evidence in cases of violence against women, and train sufficient numbers of police and legal and forensic staff to competently conduct criminal investigations;</p>
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16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all

16.3.1 Proportion of victims of violence in the previous 12 months who reported their victimization to competent authorities or other officially recognized conflict resolution mechanisms

16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels

**Legally empowering women**

46(b) Ensure women's equal representation at all decision-making levels in national institutions and mechanisms, including in the armed forces, police, justice institutions and the transitional justice mechanisms (judicial and non-judicial) dealing with crimes committed during the conflict; (c) Ensure that women, civil society organizations focused on women's issues and representatives of civil society are included equally in all peace negotiations and post-conflict rebuilding and reconstruction efforts; (d) Provide leadership training to women in order to ensure their effective participation in the post-conflict political processes.

37(b) Ensure that legal aid and public defence providers are competent and gender-sensitive, respect confidentiality and are granted adequate time to defend their clients; (c) Conduct information and awareness-raising programmes for women about the existence of legal aid and public defence services and the conditions for obtaining them using ICT effectively to facilitate such programmes; (d) Develop partnerships with competent non-governmental providers of legal aid and/or train paralegals to provide women with information and assistance in navigating judicial and quasi-judicial processes and traditional justice systems;

## Appendix II: Country case studies

### Creating effective, accountable and gender-responsive justice institutions

#### Availability

##### **BOX A.3.1 Extending women's access to justice for SGBV in Sierra Leone**

Recognizing the need to significantly enhance rural women's access to justice in **Sierra Leone**, UNDP's Access to Justice Programme took a multi-pronged approach to address the hurdles facing gender-sensitive justice. The programme helped strengthen civil society organizations' capacity, including the capacity of hundreds of women community leaders, to protect women and children from SGBV, protect and improve women's access to land and property rights and monitor and evaluate the performance of the justice sector on these issues. They also provided legal aid to women and their communities at local court levels, where most cases in the formal system are handled. In more remote areas, UNDP supported mobile courts, which have greatly increased the number of cases brought forward and resolved. The Legal Aid Scheme has delivered legal assistance to impoverished citizens seeking justice. Finally, they supported the operation of SGBV Saturday courts in two of the largest cities, to handle SGBV cases in a timely manner.

Sources: UNDP, [Strengthening the Rule of Law in Crisis-Affected and Fragile Situations](#), Global Programme Annual Report 2013, pp. 16-17, (New York, 2014) and UNDP, "Inventory on Violence Against Women, 2014-2016", pp. 12, 30, (2016). (Unpublished).

##### **BOX A.3.2 The United Nations supports Vulnerable Persons Unit in Timor-Leste**

In 2000, the UN Police Force (UNPOL) in **Timor-Leste** created a Vulnerable Persons Unit (VPU) to investigate cases of domestic violence, sexual violations, crimes against children and human trafficking. The VPU is now a critical component of the National Police Force of Timor-Leste. Its dedicated officers are valuable resources for communities, encouraging reporting and prosecution through their personal assistance to survivors and direct engagement at the grassroots level. A complementary network of thirty-five community centers across Timor-Leste offers survivors mediation, physical and emotional recovery services, legal assistance and skills training. The centers have also become spaces for capacity building and for women's organizations to meet, thus evolving into an empowerment resource for all women, and not solely survivors of gender-based violence. While this approach has been successful, more resources are sorely needed to broaden its impact—VPU officers still lack sufficient vehicles and other equipment, making it difficult to access survivors in remote areas.

Source: UN Women, [Preventing Conflict, Transforming Justice, Securing the Peace: A Global Study on the Implementation of United Nations Security Council resolution 1325](#), p. 181, (New York, 2015).

#### Accessibility

##### **BOX A.3.3 UNDP support to specialized courts dealing with gender-based violence**

UNDP is working with **Zambia's** judiciary to operationalize the first two fast-track gender-based violence courts in the country. These courts handled 224 cases in 2016, training 65 magistrates and 310 prosecutors and police officers with the support of UNDP. Additionally, 195 traditional leaders



and local court adjudicators were trained in adjudicating gender-based violence cases, which contributed to the establishment of anti-gender-based violence “one-stop” centres in 11 chiefdoms. One Chief also established a gender-based violence court in his chiefdom. These efforts have led to an increase in gender-based violence reporting from 15,153 in 2014 to 18,088 in 2015, including from men, indicating an increased understanding among the public of legal redress.

Source: UNDP, “Inventory on Violence Against Women 2014-2016”, p. 13.

## Good quality

### BOX A.3.4 The work of Physicians for Human Rights in DRC and Kenya

In **DRC** and **Kenya**, the Physicians for Human Rights (PHR) Program on Sexual Violence in Conflict Zones works to support redress for survivors of sexual violence by enhancing the abilities of the local health and legal communities to prosecute sexual violence crimes. Through a series of training workshops, PHR collaborates with local experts to train doctors, nurses and psychosocial trauma and recovery counsellors in the collection of forensic evidence of sexual violence, including documenting health consequences, assuring appropriate treatment and supporting legal assistance and advocacy. Beyond health professionals, PHR recognizes that police officers, lawyers and judges need support to properly assess cases of sexual violence and effectively interact with health workers and survivors. Therefore, PHR also works to strengthen the capacities of the law enforcement and legal communities, and connects members across sectors to facilitate an informal regional support network among stakeholders working to combat sexual violence. By enhancing the prospect that evidence can hold up in a court of law, and ensuring that survivors are treated with dignity and respect, the trainings aim to increase the likelihood that perpetrators are held accountable, survivors receive redress and future violations do not occur.

Source: Physicians for Human Rights, “[Program on Sexual Violence in Conflict Zones](#)”, (2017), (accessed 15 March 2018).

### BOX A.3.5 Examples of UNODC support to build the capacity of police and prosecution services responding to violence against women

UNODC is supporting national and regional capacity-building efforts to enhance gender-sensitive criminal justice responses to violence against women. In the Asia-Pacific region, UNODC delivered a Training of Trainers on Effective Prosecution Responses to Violence against Women for prosecutors from 10 South-East Asian countries, in collaboration with UN Women and the **Thailand** Institute of Justice. In **Kenya**, UNODC developed a training curriculum on “Ending Sexual and Gender-based Violence: The Role of the Prosecutor” and organized a series of training-of-trainers courses for prosecutors, followed by peer training conducted by the participants at the local level. Through a multi-year police reform programme, UNODC is assisting the Kenyan National Police in gender mainstreaming, strengthening capacity to respond to gender-based violence and enhancing oversight mechanisms. In **Egypt**, UNODC developed training manuals for all relevant criminal justice actors and is conducting training of senior prosecutors and forensic doctors to support changes in attitudes and practices in handling cases of violence against women. UNODC also supported the Office of the Prosecutor General to put in place a data management system for violence against women cases and supported the National Council of Women’s complaints office through the provision of training for staff to act as advocates for survivors.

Sources: United Nations, ECOSOC, Commission on Crime Prevention and Criminal Justice, Report of the Secretary-General, [Use and Application of United Nations Standards and Norms in Crime Prevention and Criminal Justice](#), para. 27, 2 March 2015, E/CN.15/2015/8; *Ibid.*, [E/CN.15/2016/9](#), para. 28, 18 March 2016; and *Ibid.*, [E/CN.15/2017/9](#), paras. 32, 51, 8 March 2017.

## Remedies

### **BOX A.3.6** An example of efforts at rehabilitating perpetrators of violence in Georgia

There is growing evidence that working with male perpetrators—alongside intervention and protection for women—is essential to reducing domestic violence. Moreover, perpetrator programs are increasingly acknowledged as a key gap in effective service delivery. In 2017, UN Women in partnership with the Ministry of Corrections and Probations of **Georgia** and with the generous support of the European Union conducted a workshop on the development of a Rehabilitation Program for Perpetrators of Violence against Women and Domestic Violence.

The workshop aimed at drafting the Rehabilitation Program for Perpetrators of Violence against Women and Domestic Violence and building the capacity of national actors, including representatives of the Ministry of Corrections and Probation and local non-governmental organizations, on implementing rehabilitation programs in line with internationally established standards and best practices. The initiative sets out to address a key gap in the delivery of preventive interventions and treatment programs for perpetrators of VAWG/DV, a commitment undertaken by the government of Georgia under the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence ratified by Georgia in June 2017.

The program drafting process is complemented by efforts to introduce legislative amendments to the Code of Criminal Procedure and Code of Administrative Procedure to ensure that the rehabilitation program is used as an alternative sentence for domestic violence perpetrators and/or a pre-condition for parole, as well as one of the restrictive conditions under a protective order. The draft legislative amendments have already been drafted with UN Women's technical support and will be submitted to Gender Equality Council of the Parliament of Georgia for further discussion and initiation by the end of 2017.

The initiative is supported within the framework of the “Unite to Fight Violence against Women” project—a three-year multi-pronged action funded by the European Union and implemented by UN Women aiming at preventing violence against women and domestic violence and eliminating its causes and consequences in Georgia.

Source: UN Women, “[Rehabilitation Program for Perpetrators of Violence against Women and Domestic Violence Underway](#)”, (8 December 2017).

### **BOX A.3.7** ADR and violence against women in Afghanistan

A 2015 report from the United Nations Assistance Mission in **Afghanistan** (UNAMA) and OHCHR, Justice through the Eyes of Afghan Women: Cases of Violence against Women Addressed through Mediation and Court Adjudication, documents the experiences of 110 Afghan women who are survivors of violence (UNAMA/OHCHR report). The women sought justice through the judicial system and non-judicial mechanisms, including mediation, across the country between August 2014 and February 2015. The majority of cases were brought to mediation; only 5 per cent of the resolved cases resulted in criminal prosecution and/or sanctions against the perpetrators. The formal legal framework in Afghanistan provides limited options for women facing violence because of its focus on criminal penalties for perpetrators and the lack of legal provisions for obtaining restraining orders and civil remedies. The UNAMA/OHCHR report found that women preferred mediation in informal settings because of corruption, abuse of power and lack of professionalism in formal justice institutions, as well as cultural and family pressures that discourage formal complaints. Women stressed the value of mediation as a swift form of conflict resolution and the majority were concerned with obtaining civil redress, such as divorce, custody settlements and with safety, as opposed to criminal

sanctions. They feared negative economic and social consequences for them and their families and noted their economic dependency on perpetrators coupled with weak legal protection of their property and other rights. These served as key factors impeding survivors of violence from taking action against abusers. For example, women who flee their marital homes after complaining to the authorities about violence will often have nowhere to go if the house belongs to the husband. The report recommended that the Government of Afghanistan adopt legal, institutional and policy reforms to better protect Afghan women facing violence. These include expanding the civil remedies available, strengthening the capacity of the criminal justice system to protect survivors, adopting common standards across judicial mechanisms and adopting common standards as well as applying the 2009 Law on the Elimination of Violence against Women more effectively. The Secretary-General's Special Representative for Afghanistan and head of UNAMA noted at the time of the release of the UNAMA/OHCHR report that "mediation of violence against women cases require support and monitoring so they are guided by principles of consent, safety, impartiality and inclusivity."

Sources: UNAMA and OHCHR, [Justice through the Eyes of Afghan Women: Cases of Violence against Women Addressed through Mediation and Court Adjudication](#), (Kabul, 2015) and OHCHR, ["Afghanistan: Reforms Needed to Ensure Justice for Women Victims of Violence - UN Report"](#), (19 April 2015).

## Legally empowering women

### Support and partner with civil society organizations

#### **BOX A.3.8 The voice of women in community-led media channels in Fiji and Uganda**

In **Fiji**, the feminist media network FemLINKPACIFIC uses radio and television-based dialogue to draw rural women and government officials together to discuss development and human security challenges, providing a unique public platform for women to share their ideas and perspectives with government decision-makers and the public alike. FemLINKPACIFIC has played a key role in supporting women's participation in peacebuilding in the region, and in informing the development and implementation of the Pacific Regional Action Plan on Women, Peace and Security. Another example is MAMA FM, a community radio station in **Uganda** and one of a handful of women-run radio stations in the world. In order to ensure that women from marginalized communities without access to a radio are able to listen, they organized "women's listening clubs" in 15 districts of Uganda—spaces for women to gather, listen and discuss. MAMA FM's media channel is an example of how media can be a doubly-powerful tool, spreading messages of gender equality and women's empowerment at the grassroots level, all while bringing women together to build and strengthen networks of peacebuilders and decision-makers.

Source: UN Women, [A Global Study on the Implementation of United Nations Security Council resolution 1325](#), pp. 290-291.

#### **BOX A.3.9 CSOs engage in public litigation and advocacy on sexual violence in Ethiopia**

With support from the international advocacy organization Equality Now and the Ethiopian Women Lawyers Association (EWLA), a young girl named Makeda and her father based in **Ethiopia** sued in 2003 for compensation after the girl was abducted and raped at the age of 13, and then forced to sign a marriage certificate which conferred impunity on her rapist. The legal case ultimately did not succeed before the courts, but in 2005, Ethiopia repealed the law allowing rapists to go unpunished if they marry their victim. A complaint was then filed with the African Commission on Human and Peoples' Rights on behalf of Makeda in 2007, arguing that the Ethiopian government's failure to

punish Makeda's rapist is a violation of its obligations under the African Charter on Human and Peoples' Rights. In 2014, the African Commission found the case admissible, and in 2016, nearly 15 years later, the Commission issued a landmark ruling that Ethiopia had failed to protect the child and prevent her abduction, rape and forced marriage, and requesting payment by the State of \$150,000 to Makeda for pain and suffering. The State was also requested to implement measures to deal with marriage by abduction and rape; and for Ethiopia to implement judicial training and report back to the Commission.

Source: Adapted from Equality Now, "[Makeda's Case: Rape, Abduction and Forced Marriage](#)", (accessed 15 March 2018).

### **BOX A.3.10 Advocacy, empowerment and voice for girls in Kenya**

The case of *C.K. et al. v. Kenya* (8/2012) was initiated by the efforts of lawyers at the Federation of Women Lawyers (FIDA-Kenya) working at a Kenyan shelter for women and girls, an international team of volunteer lawyers and Kenyan constitutional counsel, in collaboration with the Kenya National Human Rights Commission. The case was a challenge against the State brought by petitioners—all young girls, some as young as three months old—who had been raped. The evidence and the proceedings took more than 18 months to prepare and the proceedings were brought against the Kenyan police, the Director of Public Prosecutions and the Minister of Justice for failing to adequately investigate allegations of rape and defilement. The Court found for the petitioners and held that the police must enforce Kenyan laws that prohibit defilement (rape) and that police are required to enforce the law by investigating cases, interviewing witnesses and suspects and arresting alleged perpetrators in accordance with internationally accepted practices. As a result, there has been training with and for Kenyan police on how to handle rape cases and investigations, and a new mobile app to teach and empower girls to know and act on their legal rights.

Sources: [C.K. et al. v. the Commissioner of Police/Inspector General of the National Police Service et al.](#), Petition No. 8 of 2012 and Joseph Boinnet, Kagwiria Mbogori and Fiona Sampson, "[160 Girls Show the Way for Survivors of Rape](#)", Daily Nation, (24 April 2016).

## **Education on women's rights**

### **BOX A.3.11 Deploying HeForShe for tackling violence against women with an example from Malawi**

Created by UN Women, HeForShe is a solidarity movement for gender equality. It was launched in September 2014 by United Nations Secretary-General Ban Ki-moon and UN Women Global Goodwill Ambassador Emma Watson. Its unique and targeted platform uses online, offline and mobile technology to identify and activate men to become change agents towards the achievement of gender equality. The HeForShe commitment affirms gender equality is not only a women's issue but a human rights issue that requires the active participation of men and boys. So far, 1.6 million people have made HeForShe commitments and there have been more than 1 billion actions for gender equality.

The HeForShe platform offers targeted tools and interventions to educate men and boys, encouraging them to evaluate and evolve their own attitudes and proactively intervene wherever there is discrimination or violence. For example, HeForShe offers three actionable steps that men and boys can take to eliminate gender-based violence in their communities: reporting bullying and

abuse online, educating themselves through free, digital resources and being an active bystander. HeForShe uses Voices Against Violence, a non-formal education programme by UN Women and the World Association of Girl Guides and Girl Scouts, to provide young people with the tools to prevent gender-based violence before it starts. These kinds of educational curricula can be used to support access to justice programming, therefore supporting normative change in communities and building coalitions around ending gender-based violence.

**Malawi** has one of the highest rates of child marriage in the world, with 1 in 2 girls married before her 18th birthday. The HeForShe movement is enlisting the support of men and boys to end this harmful practice and support the reform of marriage and family law in Malawi. The HeForShe IMPACT 10x10x10 programme engages key decision makers in governments, corporations and universities around the world to make commitments for gender equality and drive change from the top. When the President of the Republic of Malawi, Arthur Peter Mutharika, became a HeForShe Head of State IMPACT Champion, he committed to take groundbreaking steps to eliminate child marriage and made it a national priority. In 2015, Malawi passed the Marriage, Divorce and Family Relations Act, an important step towards ending child marriage. Malawi commits to fully implementing this law, and has already established a dedicated Task Force on Ending Child Marriage, which will report directly to the President. The Task Force will have several key responsibilities: collect and report data on the average marriage age, escalate challenges or lagging progress, and convene stakeholders from across the country. Additionally, the government will establish Marriage Courts at district level to handle cases and monitor the implementation of the Act. Finally, the government commits to amending the register of marriage.

Sources: HeForShe, [In Brief: HeForShe – UN Women Solidarity Movement for Gender Equality](#), (New York, HeForShe and UN Women, n.d.); World Association of Girl Guides and Girl Scouts and UN Women, [Voices Against Violence: Handbook for Group Leaders](#), (New York, 2013); UN Women, [HeForShe](#), (2016); HeForShe, [“Take Action Violence”](#), (2016); HeForShe, [“Head of State IMPACT Champion Arthur Peter Mutharika President of the Republic of Malawi”](#), (2016). All HeForShe Internet sources accessed 15 March 2018.

### **BOX A.3.12 Working to address FGM/C in Senegal**

An example of a holistic approach is the social change programme run by Tostan, a CSO based in **Senegal** which focuses on two types of activities: an education programme to educate a group of women in a village and a social mobilization strategy that, in some cases, leads to a public declaration rejecting a harmful practice. The education campaign includes FGM/C as one session but is bolstered by sessions on problem solving, hygiene, leadership, child development, etc. The education programme is taught through establishing community classes in villages, in which about 30 women attend sessions three times a week over a period of one to two years. A facilitator is recruited by Tostan to teach the education programme in the local language. The leaders of the village convene a meeting of all the villagers and inform the community about the programme that Tostan would like to implement. The other major component encourages public declarations as a way for communities to publicly announce the abandonment of traditional practices, such as FGM/C. Evaluation shows that most villages that participated in the programme held a public declaration expressing their intention to abandon these practices, and many do end the practice following a public declaration.

Source: Nafissatou J. Diop, Amadou Moreau and Hélène Benga, [Evaluation of the Long-term Impact of the TOSTAN Programme on the Abandonment of FGM/C and Early Marriage: Results from a Qualitative Study in Senegal](#), p. 1, (Dakar, Population Council, 2008).

## Considerations for crisis-affected contexts

### BOX A.3.13 Searching for the disappeared in Argentina

In **Argentina**, in the aftermath of one of the earliest and most well-known cases of State-led enforced disappearance campaigns, family members and those intimately connected to the disappeared were forced to subsist in a state of legal limbo for years, unable to process their loved ones' wills, sell their apartments or close their bank accounts. Their only option was to declare their loved one "presumed dead", a decision that afforded no recognition of State responsibility, and therefore was so beset with psychological anguish and political capitulation that most—except the most economically destitute—were unwilling to take it. But in 1994, a new status of "forcibly disappeared" was created, which offered a legal equivalency to death for the purposes of civil matters, but stopped short of declaring the person dead. This new legal category availed family members of their right to access the property of their loved ones, but perhaps more importantly, it was a step that offered both implicit recognition of their suffering and some measure of institutional support to move beyond their psychological limbo (if and when they were ready to do so).

Source: Dyan Mazurana and Bretton J. McEvoy, "Enhancing Women's Access to Justice from Transition to Transformation and Resilience", p. 29, (2017). Expert paper prepared for UN Women. (Unpublished).

### BOX A.3.14 Justice for war crimes committed against indigenous women in Guatemala

The prosecution of crimes committed during **Guatemala's** 36-year civil war has been undertaken through its national courts, rather than through special war crimes tribunals. A key component of UN Women Guatemala's work has been providing support and technical assistance for strategic court cases, working with CSOs and public institutions with responsibilities and obligations in this field for the judicial advancement of these cases, especially those related to sexual violence in the context of the armed conflict (strengthening transitional justice processes). A critical victory was achieved on 27 January 2016 with the guilty verdict against two members of the military accused of war crimes occurring in 1982 and 1983; crimes of sexual slavery, rape, forced disappearances, ill-treatment and discrimination against 11 Mayan Q'eqchi' women, who were living around the Sepur Zarco detachment in the department of Izabal. This verdict represented an important achievement after many years of struggle, in which actors and forces from a wide and diverse range of areas were joined to create synergies and mutual complementarities. UN Women Guatemala was part of this sum of efforts, the result of which not only set a precedent at a global and historical level, it being the first time that sexual violence was tried as a war crime in a national court, but also, even more importantly, strengthened the rule of law, generated advances in guarantees of non-repetition and repaired the dignity of women in the country.

Sources: UN Women, "[Sepur Zarco: In pursuit of truth, justice, and now reparations](#)", (22 October 2017) and Leitmotiv, "[Guatemala Case Study: Advances in and Challenges For Specialized Justice](#)", Regional Assessment of Access to Justice as a preventive mechanism to end violence against women 2011-2015, prepared for UN Women, pp. 14-17, (n.p., 2016).

### BOX A.3.15 The Moroccan Equity and Reconciliation Commission

The Equity and Reconciliation Commission of **Morocco** broke from traditional inheritance law, which would have provided daughters with half the amount granted to sons, and instead recommended equal payments to female and male family members. The recommendation of the Commission was subsequently implemented as proposed by the Moroccan State. This achievement was

complemented by the 2004 reform of the Moroccan Family Code and the 2011 adoption of a new constitution in Morocco that guarantees gender equality. Despite these gains, however, inheritance in Morocco remains rooted in Islamic tenets, with legislation stipulating that men receive double the inheritance of their female relatives. Morocco's National Human Rights Council (CNDH), entrusted to follow up on the Commission's recommendations, is continuing to push for gender-equitable reform. Women activists and UN Women are working to encourage and support the CNDH to use these prior accomplishments and international law as a basis to challenge Moroccan inheritance law and ensure equality and non-discrimination before the law for women and girls. The CNDH recommends in its 2015 report: "amend the Family Code in order to give women equal rights in marriage, divorce, relationships with children and inheritance, in accordance with Article 19 of the Constitution and Article 16 of CEDAW".

Sources: Conseil National des Droits de l'Homme, [Gender Equality and Parity in Morocco: Preserving and Implementing the Aims and Objectives of the Constitution](#), Executive Summary, p. 4, (Rabat, 2015) and Mazurana and McEvoy, "Enhancing Women's Access to Justice from Transition to Transformation and Resilience", p. 25.

## Appendix III: Additional resources

- War Child Canada, [A Guide to Sexual and Gender-Based Violence Legal Protection in Acute Emergencies](#), (2016)
- UN Women, [The Change-Makers: A Young Activist's Toolkit for Ending Violence against Women and Girls](#), (2014)
- United Nations, [Guidance Note of the Secretary-General, Reparations for Conflict-Related Sexual Violence](#), (2014)
- UNFPA, [The Role of Data in Addressing Violence against Women and Girls](#), (2013)
- UN Women, [Virtual Knowledge Centre to End Violence against Women and Girls](#), (2012)

# ENDNOTES

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- 6 CEDAW/C/GC/35, para. 18.
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- 10 Ibid.
- 11 Ibid.
- 12 UN Women, Virtual Knowledge Centre to End Violence against Women and Girls, “Glossary of Terms from Programming Essentials and Monitoring and Evaluation Sections”, (2012), available



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- 18 OHCHR and UN Women, *Latin American Model Protocol for the Investigation of Gender-Related Killings of Women (Femicide/Feminicide)*, p. 13, (Panama, 2015).
- 19 See United Nations, General Assembly, Resolution 68/191, *Taking action against gender-related killing of women and girls*, footnote 1, 18 December 2013, A/RES/68/191.
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- 23 UN Women, WHO, UNFPA, UNDP and UNODC, “Module 3: Justice and Policing”, in *Essential Services Package for Women and Girls Subject to Violence, Core Elements and Quality Guidelines*, p. 10, (New York, 2015).
- 24 United Nations, General Assembly, Resolution 60/147, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, Annex, para. 18, 16 December 2005, A/RES/60/147.
- 25 United Nations, General Assembly, Resolution 65/228, *Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women*, Annex, para. 15(c), footnote 22, 21 December 2010, A/RES/65/228.
- 26 ICJ, *Women’s Access to Justice for Gender-Based Violence: A Practitioners’ Guide*, No. 12, pp. 3-4, (Geneva, 2016).
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- 89 UN Women, WHO, UNFPA, UNDP and UNODC, “Module 4: Social Services”, in *Essential Services Package for Women and Girls Subject to Violence, Core Elements and Quality Guidelines*, p. 17, (New York, 2015).
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- 104 *Ibid.*, p. 24.
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- 110 This is based on knowledge from UN Women's field experience in these countries.
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Resilient nations.*

