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# LEGISLATIVE WINS, BROKEN PROMISES

Gaps in implementation of laws on violence  
against women and girls

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**This multi-country research report examines the problem of “implementation gaps” – government failures to fulfill their legislative obligations to address and prevent violence against women and girls (VAWG). It presents a comparative analysis of shortfalls between government commitments as laid out in laws, and the realities for VAWG survivors as they try to access services and justice. Drawing also on positive examples, lessons are shared about what can be done to improve the implementation of VAWG laws, and how civil society organizations can more effectively hold governments to account, so that laws can have a greater impact on ending VAWG.**

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# ACRONYMS

A-G	Attorney-General
CEDAW	Convention (or Commission) on the Elimination of All Forms of Discrimination against Women
CSO	Civil Society Organization
DDP	Due Diligence Principle
DIR	Domestic Incident Report
FELCV	Special Force for the Fight Against Violence against Women (Bolivia)
FEPVA	Public Prosecutor Specialized in Violence (Bolivia)
FGM/C	Female Genital Mutilation/Cutting
GBV	Gender-based Violence
GII	Gender Inequality Index
HDI	Human Development Index
KH	Knowledge Hub
MAI	Model of Comprehensive Assistance to Women Victims of Gender-based Violence in Nicaragua
MFASSNHPTA	Ministry of the Family, Social Action, National Solidarity, the Handicapped [ <i>sic</i> ], and Senior Citizens (Benin)
NCW	National Commission for Women (India)
NGO	Non-government Organization
PDVA	Prevention of Domestic Violence Act
PO	Protection Officer
PWDVA	Protection of Women from Domestic Violence Act
SLIMs	Municipal Comprehensive Legal Services (Bolivia)
SOPs	Standard Operating Procedures
SP/CNLPE	Permanent Secretariat of the National Council for the Fight against the Practice of Excision (Burkina Faso)
UN	United Nations
UNDP	United Nations Development Program
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
VAWG	Violence against Women and Girls
VSU	Victim Support Unit
WHO	World Health Organization
WOLREC	Women's Legal Resource Centre (Malawi)
WRO	Women's Rights Organization

# EXECUTIVE SUMMARY

Violence against women and girls (VAWG) is one of the most horrific expressions of gender inequality and violations of human rights in the world today. International human rights agreements obligate states to take action to end VAWG, and due in large part to the struggles of women's and feminist organizations over the last 30 years, today, over 125 countries around the world have some sort of legislation on VAWG. Whether criminal or civil in nature, these laws send the message that VAWG is not acceptable, and lay out both punishments for perpetrators and commit governments to provide services for women and girls who experience violence.

Despite these laws, the global prevalence of VAWG remains disturbingly high. Over one-third of ever-partnered women worldwide have experienced physical or sexual violence, one in five women have been abused as girls, and tens of millions of girls every year are at risk of female genital mutilation/cutting (FGM/C), early or forced marriage, and sexual violence while pursuing their education. Legislation alone will not eliminate VAWG, but these laws could have a lot more impact on reducing the prevalence of VAWG if they are consistently supported by effective implementation. Unfortunately, there is mounting evidence to show that implementation often has serious deficiencies.

This Oxfam report, based on research conducted in seven countries in the Global South, examines the problem of "implementation gaps" – the shortfalls between governments' legislative commitments to address and prevent VAWG, and the on-the-ground realities in terms of prevention, access to services, and access to justice for women and girls who experience violence. It will be of interest to government officials and policy makers, institutional actors involved in implementing VAWG laws (e.g., law enforcement, the judiciary), non-government organizations (NGOs) and women's rights organizations (WROs), and academics and activists committed to ending VAWG.

## About the research

This research project was a collaborative, co-created initiative among Oxfam and researchers in seven countries – Benin, Bolivia, Burkina Faso, Dominican Republic, India, Malawi, and Nicaragua. It was facilitated by Oxfam's Knowledge Hub on Violence against Women and Girls/Gender-based Violence.

Through literature reviews, policy analyses, and interviews with key groups of stakeholders, the research set out to answer five main questions:

- What types of implementation gaps (shortfalls or failures) exist?
- Where or among which actors do the gaps occur?
- What are the main reasons that explain implementation gaps?
- What is needed to improve implementation?
- What could Oxfam and other CSOs do better or differently to influence relevant actors to better implement VAWG legislation?

Taking a comparative approach, this report presents a summary of findings in each country, as well as a synthesis of key lessons and messages on both how implementation of VAWG laws can be improved, and how Oxfam and its allies can strengthen efforts to influence duty-bearers to fulfill their governments' commitments.

In addition to focusing on shortfalls and failures of implementation, the research also examines what *is* being implemented relatively well and why, so that lessons can be drawn from those cases and experiences. Two of the countries – Burkina Faso and Dominican Republic – were identified as having better implementation of VAWG legislation, and participated in the project as “positive deviance” examples.

## Key findings

Despite significant differences in the VAWG legislation across the seven countries, significant similarities emerged in terms of implementation gaps.

First, those responsible for implementing VAWG laws are failing to effectively follow the processes and procedures required of them. These shortfalls relate to how women's reports of violence are handled, the measures of protection that women should be afforded to prevent further harm, and the enforcement of court orders. Second, there are significant deficiencies in VAWG infrastructure and services. These include shelters, counselling, and legal aid services for women and girls who experience violence, as well as proper detention facilities for perpetrators. Third, there are serious problems with how women who have experienced violence are treated as they try to access justice and support services. Oftentimes, they are re-victimized, blamed, not believed, or dissuaded from pressing charges.

The research found 14 explanations for these implementation gaps across the seven countries, and examines five of the most cited ones in greater detail. First, legislation is not accompanied by sufficient financial resources from the state for implementation. International funding is important, but not sustainable. Second, those responsible for implementing the law often do not have the information, awareness, and skills they need. Many do not know the law well or what their obligations are, and training is insufficient or not sustained adequately over time. Third, there is insufficient coordination and clarity of roles among key stakeholders, such as law enforcement and service providers, who must work together to implement the law. Fourth, individual attitudes and social norms that condone VAWG and gender inequality shape the behavior of implementing actors in ways that are detrimental to survivors. The research thus demonstrates the links between the sociocultural and the political. Finally, political will – the state's demonstrated prioritization of VAWG as a central concern – is sorely lacking, reflected in corruption, poor accountability compliance, and lack of budgetary allocations.

Implementation of VAWG legislation in the Dominican Republic and Burkina Faso, while far from perfect, presents some good lessons. For instance, the Dominican Republic has made significant strides in establishing the institutional infrastructure and the training necessary for women to access services and justice. Much of this is attributable to effective coordination and cooperation among key stakeholders, and a well-organized feminist movement that is willing and able to collaborate with the state while maintaining independence and a critical stance. In Burkina Faso, where research focused on penal code provisions that outlaw FGM/C specifically, penal approaches have been combined with strategies aimed at lowering the social acceptance of FGM/C. Keys to progress in this case include considerable political will and action plans supported by international funding.

## Key messages and lessons

Based on the implementation gaps and limited successes highlighted by the research, this report discusses what needs to be done to improve implementation of VAWG legislation, and to more effectively hold states to account. To improve implementation, the report emphasizes the importance of: adequate institutional infrastructure for access to justice and to services; elements to facilitate the “how” of implementation, such as action plans, regulations, protocols, and training; sufficient political will and financing from the state; effective monitoring and evaluation of implementation; a focus on preventing VAWG through reducing its social acceptance, not just addressing incidents through services and punishments; and the active involvement and leadership of WROs.

The state is ultimately responsible for implementing its legislative commitments, but experience shows that civil society organizations (CSOs) must strongly and continuously urge it to do so. The report shares lessons from some successes in this regard. Although relationships with government can be fraught with difficulty, CSOs and WROs need to find openings for engagement. They are encouraged to: be well organized among themselves and creative in their advocacy; be willing to collaborate with the state; establish themselves as sought-after experts; and propose detailed demands for better implementation.

The spirit and promise of laws on VAWG have not been sufficiently fulfilled because many states have not risen to the challenge – and obligation – of implementation. Even in struggling countries, there are steps that every institutional actor can take – ideally in concert with others, especially WROs – to improve implementation. This report adds to the evidence base that duty-bearers are not doing enough to fulfill their commitments, but also contributes to the knowledge base about what needs to be done – and has worked – in order to strengthen the impact of laws on the elimination of VAWG.

# 1. INTRODUCTION

## Violence against women and girls and gender-based violence<sup>1</sup>

Oxfam envisions a safe and just world, where women and girls gain power over every aspect of their lives and live free from violence. The elimination of violence against women and girls (VAWG)<sup>2</sup> and support for survivors and their dependants are fundamental prerequisites to the empowerment of women and girls, and for sustainable development worldwide.

The global prevalence of VAWG remains disturbingly high. Over one-third of ever-partnered women worldwide have experienced physical or sexual violence (World Health Organization, 2013: 20), one in five women have been abused as girls (World Health Organization, 2014: 2),<sup>3</sup> and tens of millions of girls every year are at risk of female genital mutilation, early or forced marriage, and sexual violence while pursuing their education (UNICEF, 2013: 114; Moosa et al., 2010: 7, 15).

VAWG violates human rights, impedes active citizenship, constrains the eradication of poverty, and is a major cause of death, physical and mental health problems, and disability (Rosche, 2013). According to a study of nine countries representing both the Global North and South, addressing VAWG costs up to two percent of national GDP, which could deprive other economic development efforts of critical resources (Duvvury et al., 2013: 25).

Owing in no small part to the advocacy of women's and feminist movements, VAWG is increasingly on the agendas of human rights and development actors worldwide. VAWG is the subject of numerous regional and international agreements, which condemn it and establish the critical principle of due diligence – the obligation of states to prevent and address VAWG as a human rights violation (Abdul Aziz and Moussa, 2014). Under this principle and the instruments that stipulate it, states are called upon to reform their legal frameworks in order to prevent VAWG, protect survivors, prosecute and punish perpetrators, and provide recompense for survivors and their dependants. As a result, and due to increased pressure by women's and feminist movements, over the past few decades there has been a substantial increase in legislation and related policies around the world: today over 125 countries have some sort of legislation on VAWG, compared to only a handful in 1990 (The World Bank, 2016: 20).

These legislative developments mark a significant positive shift in global discourse and state action, and are critical ingredients in the fight against VAWG. However, it is becoming increasingly obvious that the implementation of domestic VAWG/GBV legislation is falling far short of the spirit of these laws and governments' stated commitments (García-Moreno et al., 2014; Ertürk, 2006), both in terms of access to justice, and access to support services and reparations. These "implementation gaps" – failures and shortfalls between states' legislative commitments and on-the-ground realities – are the focus of this report. It must be acknowledged that laws alone will not eliminate VAWG, but this report starts from the premise that strong implementation of existing legislation is critical in order to address human rights violations of women and girls, to change social norms that underpin VAWG, to build public confidence in institutions, and to fulfill commitments that governments have made to protect human rights.

## Project goals, questions and countries

Overall, the research project that informs this report is aimed at better understanding the reasons for and possible solutions to gaps between domestic VAWG legislation<sup>4</sup> and the realities of implementation, particularly access to justice and services for survivors. It is intended to generate information that can improve implementation, and strengthen the efforts of Oxfam and its allies to influence duty-bearers to fulfill their commitments to end VAWG/GBV and assist survivors.

Five overall questions frame the project:

1. What types of implementation gaps (shortfalls or failures) exist?
2. Where or among which actors do the gaps occur?
3. What are the main reasons that explain implementation gaps?
4. What is needed to improve implementation?
5. What could Oxfam and other CSOs do better or differently to influence relevant actors to better implement VAWG legislation?

The research project entailed seven country-based studies: Benin, Bolivia, Burkina Faso, the Dominican Republic, India, Malawi, and Nicaragua, and focused on the implementation of a specific piece of VAWG legislation in each.<sup>5</sup> In addition to focusing on shortfalls and failures, the project also examined what *is* being implemented relatively well and why, informed by the concept of “positive deviance”,<sup>6</sup> and a comparative approach to addressing the research questions. To this end, and as further explained below, two of the seven participant countries – the Dominican Republic and Burkina Faso – were identified for having comparatively better implementation of VAWG/GBV legislation.

## Uses and significance of this report

This report is a comparative synthesis of the country-level studies,<sup>7</sup> complemented by a review of other existing research. In addition to providing a summary of each country study, the report reveals key similarities and differences among the countries, and presents a set of key messages and lessons.

This report is written for a diverse range of audiences, including government officials and bureaucrats, other institutional actors involved in implementing VAWG/GBV-related laws or policies (e.g., police, the judiciary, lawyers, etc.), non-government organizations (NGOs) and women’s rights organizations (WROs) that work on VAWG/GBV (including Oxfam and its partner organizations), and academics and activists committed to ending VAWG/GBV. It is intended to enhance readers’ knowledge and understanding of VAWG/GBV implementation gaps, and to be a basis for new or strengthened action, whether in implementing legislation or in influencing responsible actors to do so more effectively.

This report is of considerable importance. There have been myriad calls at the international level for the improvement of implementation of VAWG/GBV legislation and policy (e.g., (UN Women, 2013; UN Economic and Social Council, 2015)), but there is comparatively little research and evidence to inform such action. National-level monitoring and evaluation of policy implementation is rarely conducted (Manjoo, 2013; Weldon and Htun, 2013), giving rise to the need for studies of implementation such as this one (García-Moreno et al., 2014). Although small in scale, the research presented in this report brings an in-depth, firsthand, and comparative look at the problem of implementation gaps, and offers many valuable lessons to a range of readers.

## **This research and Oxfam's work**

This project is grounded in and contributes to strengthening Oxfam's global program to end VAWG/GBV, which is implemented in approximately 50 countries around the world. Ending VAWG/GBV and assisting survivors are integral to Oxfam's vision to see a safe and just world where women and girls gain power over every aspect of their lives and live free from violence, and are critical to Oxfam's mission of overcoming poverty and suffering.

To guide their work on VAWG/GBV, Oxfam country programs and partner organizations draw upon a global framework, which is based on the need for transformative change that challenges patriarchal power relations. The framework entails four major components or goals:

- women's organizations working to reduce VAWG/GBV are supported by allies and funders and are increasingly sustainable;
- men and women in their communities and institutions have transformed the attitudes, norms, and behaviors that perpetuate VAWG/GBV and acted to reduce the social acceptance of VAWG/GBV;
- duty-bearers have demonstrated their commitment to reducing VAWG/GBV and to transformational change by protecting citizens through stronger legislation and policy, and more effective implementation;
- survivors are more effectively supported by service-providing institutions, and have increasingly acted as change agents in their communities on VAWG/GBV.

This research project is focused primarily on the third component regarding duty-bearers, but its results and the influencing efforts that it will help to strengthen will advance the other objectives of Oxfam's global framework as well. For instance, in light of the findings to be presented below, Oxfam will continue to advocate for improvements to services for VAWG/GBV survivors and for funding to WROs. As well as this, better enforcement and implementation of legislation strengthens the message that VAWG/GBV is unacceptable, which supports changes in norms and attitudes (UN Economic and Social Council, 2015).

The design and facilitation of this project was led by Oxfam's Knowledge Hub on VAWG/GBV, an initiative oriented toward resources and networking, intended to help Oxfam colleagues and their partners worldwide who work on VAWG/GBV to improve the quality of their programming and influencing, and to increase funding for their programs.<sup>8</sup>

## **Outline of the report**

The remainder of the report proceeds as follows: Section 2 puts VAWG in global context by examining prevalence, root causes, and impacts, and by outlining regional and international agreements on VAWG. Section 3 develops the contextual analysis by presenting the principle of due diligence – which obliges states to prevent and address human rights violations – and by outlining what the existing research indicates regarding both the importance of VAWG legislation and shortfalls in implementation. Section 4 sets out the project design and methodology. Sections 5 and 6 present the country-based research findings, starting with a profile of each country, followed by a comparative analysis. Section 7 presents key messages and lessons on implementation and influencing. Section 8 concludes the report and offers ideas for further research.

## 2. VIOLENCE AGAINST WOMEN AND GIRLS IN THE GLOBAL CONTEXT

### **VAWG: The state of the problem**

Over one-third of ever-partnered women worldwide have experienced physical or sexual violence, usually committed by their partners (World Health Organization, 2013: 20) and one in five women are abused as girls (World Health Organization, 2014: 2). VAWG knows no geographical or cultural boundaries. With regional prevalence rates among girls/women of 15 years-old and over<sup>9</sup> ranging from 27.2 percent in Europe to 45.6 percent in Africa, VAWG is truly a global pandemic ( World Health Organization, 2013: 20).

VAWG violence starts early in life: 125 million girls and women alive today have undergone female genital mutilation/cutting (FGM/C), with two million girls a year at risk (UNICEF, 2013: 114). Every year, 60 million girls are sexually assaulted either at or while travelling to and from school (Moosa et al., 2010: 7), yet violence can affect women and girls throughout their lifetimes, and in any number of situations, including early and forced marriage, sexual violence in dating relationships, sexual harassment in workplaces, domestic violence in marriages, and, ultimately, femicide in such forms as dowry murder and honor killings (UNiTE to End Violence Against Women, 2015). Over one third of murders of women are committed by male partners (World Health Organization, 2014: 10).

Although all women and girls, worldwide, are at risk of GBV, certain circumstances elevate the risk. For instance, sexual violence is a defining and deliberate tactic of armed conflict (Rosche, 2013); in some regions, over half of women with disabilities have experienced physical violence, compared to one-third of women without disabilities (United Nations Secretary-General, 2006); and Indigenous women are at much greater risk of femicide than non-Indigenous women (United Nations Secretary-General, 2006). These facts reflect the multiple and uneven forms of discrimination experienced by women and girls.

Uniting all women and girls in their experiences of VAWG, however, is the underlying root cause of this violence: unequal gender power relations between women and girls on the one hand, and men and boys on the other (Alexander-Scott et al., 2016; UN Women, 2013). VAWG is one of the most enduring expressions of gender inequality, and is used as a tool to keep women and girls in positions of inferiority when it comes to power, rights, well-being, and life opportunities.

VAWG is a violation of human rights that robs women of control over their own bodies and dignity, and inflicts myriad physical, psychological, and emotional harms on survivors. These include the direct results of incidents of violence, as well as longer-term trauma and mental health consequences. VAWG can also have intergenerational impacts by causing pregnancy-related and other reproductive health problems, and HIV/AIDS (World Health Organization, 2014). In addition, VAWG limits women's and girls' choices and ability to access education, earn a living, and participate in political and public life (Rosche, 2013).

In addition to the impacts on women and girls who experience violence, VAWG inflicts indirect harms on everyone, and is a major constraint to the eradication of poverty. The economic costs of responding to VAWG through health systems, social services, and justice systems are enormous, in addition to losses in economic productivity and earnings, which are caused by both the direct impacts of violence, and deficits in girls' education.

A study in the United Kingdom found that the costs of domestic violence alone – including justice, healthcare, social services, housing, legal, lost output, and pain and suffering – to be £23bn per year (United Nations Secretary-General, 2006). Information about costs in developing countries are more difficult to find, but a recent nine-country study by the World Bank – which includes some countries in the Global South – calculates that losses from intimate-partner violence alone amount to between 1.2 and 2 percent of GDP, which represents the equivalent of what some countries spend on primary education (Duvvury et al., 2013: 25). Although focused on interpersonal violence in general – not VAWG specifically – another illustrative study found that economic growth rates could increase by as much as 5 percent if violence was significantly reduced (World Health Organization, 2014: 18).

## **Regional and international agreements**

VAWG has been on women's rights agendas for decades, and is now gaining prominence in wider human rights and development agendas at regional and global levels. It is the focus of international conventions, treaties, resolutions, and declarations, as well as regional human rights instruments, and jurisprudence of international human rights tribunals (de Silva de Alwis and Klugman, 2015).<sup>10</sup> Most notably at the international level, these include Recommendation No. 19 of the Committee on the Elimination of Discrimination against Women (1992),<sup>11</sup> the UN Declaration on the Elimination of Violence against Women (1993), the Beijing Platform for Action (1995), the Agreed Conclusions from the 57<sup>th</sup> meeting of the UN Commission on the Status of Women (2013), and the most recent Agenda 2030 for Sustainable Development, specifically SDG Number Five, which specifically targets the elimination of all forms of violence against all women and girls (2015). Regionally, there are agreements that address VAWG in Europe, the Americas, and Africa.<sup>12</sup>

All of these serve to increase the global recognition of VAWG as a form of discrimination, a violation of human rights, an expression of gender inequality, and an obstacle to sustainable development worldwide (The Advocates for Human Rights, 2011).

# 3. DUE DILIGENCE AND IMPLEMENTATION GAPS

## Due diligence

In addition to defining and condemning VAWG, the regional and international instruments on VAWG establish the crucial principle of due diligence, which informs this research project. The Due Diligence Principle (DDP) establishes that every state has an obligation to take reasonable measures to protect those within their territory or jurisdiction from human rights violations and to address them when they occur. The DDP is a critical tool to hold states accountable for their actions and failures to act in relation to human rights, and obliges states to adopt and implement measures to address VAWG through both prevention and response. This obligation applies to VAWG that is committed by state or non-state actors, wherever in the state's territory VAWG may occur (Ertürk, 2006).

The DDP as applied to VAWG is established in several international and regional human rights instruments<sup>13</sup> and in national-level jurisprudence. For instance, the UN Declaration on the Elimination of Violence against Women calls upon states to exercise due diligence to prevent VAW, prosecute perpetrators, and provide compensation to victims (Ertürk, 2008).

Specifically, due diligence requires “Five Ps” (Abdul Aziz and Moussa, 2014):

1. prevention of VAWG;
2. protection of survivors and their dependants;
3. prosecution of perpetrators;
4. punishment that is sufficient and fair; and
5. provision of redress and reparations to survivors.

These obligations have both individual and systemic components (Manjoo, 2013). Individual due diligence refers to the 5P obligations that states have toward individual survivors of violence. Systemic due diligence refers to states' obligations to create a sustainable, holistic, functioning system that supports the elimination of violence on the societal level, both through improvements to how institutions operate and the transformation of social norms and attitudes.

Reports over the past decade from the UN Special Rapporteurs on Violence against Women have laid out the specific obligations of states; for instance, in the form of questions they should address (Manjoo, 2013) or suggested indicators (Ertürk, 2008). What is required to fulfill the due diligence standard will vary based on commitments made by states and their domestic contexts (Ertürk, 2006). However, crucially, states have a duty to eliminate VAWG, and are responsible for acts of VAWG “if they fail to act with due diligence to prevent, protect against, investigate, punish, and redress the same” (Abdul Aziz and Moussa, 2014: 1).

## National legislation – its importance and limitations

A crucial first step for states to act on their due diligence obligations in relation to VAWG is to reform their legal frameworks. For instance, the 1993 Beijing Platform for Action requires that states undertake an audit of their legal framework and ensure that criminal and civil law address and criminalize all forms of VAWG (Ertürk, 2008), and the CEDAW Resolution No. 19 recommends that states enact “[E]ffective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence” (Commission on the Elimination of All Forms of Discrimination Against Women, 1992: Article

24). As a result, the last few decades have seen considerable progress in national-level legal reforms: in 1990 only a few countries had any VAWG-related legislation, whereas today, 127 countries have legislation<sup>14</sup> on domestic violence, the type of VAWG most commonly addressed by laws (The World Bank, 2016: 20).

In general, these laws make VAWG a criminal or civil offense, lay out punishments for perpetrators, provide protection mechanisms for survivors, mandate new institutional mechanisms and responsibilities, and order the provision of support services for survivors and their dependants (de Silva de Alwis and Klugman, 2015; World Health Organization, 2014). Specific elements and support services can include counselling, shelters, telephone hotlines, protection orders, special police units and courts, and legal aid or representation (UN Economic and Social Council, 2015).

These legislative developments mark a significant positive shift in global discourse and state action, and “major progress in establishing the right of women to live free of violence” (de Silva de Alwis and Klugman, 2015: 6). They follow from states’ commitments to regional and international agreements (The World Bank, 2016; Richards and Haglund, 2015; Ertürk, 2008; UN Economic and Social Council, 2015),<sup>15</sup> but importantly, they also reflect the struggles and strength of civil society, in particular of women’s and feminist movements, which have been pivotal in demanding that governments live up to the agreements they have ratified and to reform legal frameworks (de Silva de Alwis and Klugman, 2015; Alexander-Scott et al., 2016; and Weldon and Htun, 2013). Weldon and Htun (2013), for example, found that autonomous feminist activism is a greater predictor of government action to address VAWG than the presence of women legislators, impacts of political parties, or national wealth.

The existence of VAWG-related legislation is a critical component of the fight against violence and enhancing women’s and girls’ well-being more generally (World Health Organization, 2014; Thomas et al., 2011; UN Women, 2012). Women who live in countries with domestic violence laws have 7 percent lower odds of experiencing violence compared with women living in countries without such laws (de Silva de Alwis and Klugman, 2015: 7), and women’s life expectancy is higher in countries with legal protections from domestic violence (The World Bank, 2016).

The scope and strength of VAWG-related laws varies considerably across countries and are subject to critique. Many laws are weak or incomplete. For instance: sexual harassment and marital rape are less likely to be addressed than domestic violence and non-marital rape (Richards and Haglund, 2015; World Health Organization, 2014); rape may not be punishable if a survivor marries the perpetrator (Manjoo, 2013); there is often an over-emphasis on criminal justice approaches, leaving prevention strategies insufficiently unaddressed; (de Silva de Alwis and Klugman, 2015; Alexander-Scott et al., 2016); and victim compensation provisions are relatively rare (World Health Organization, 2014). Stronger or more comprehensive legislation covers all forms of VAWG, and mandates or provides for – among other elements – scalable prevention strategies, monitoring mechanisms, a national action plan, and training for implementing actors (UN Women, 2012).<sup>16</sup>

It must be acknowledged that even the best laws (on paper) are not sufficient to eliminate VAWG (de Silva de Alwis and Klugman, 2015): “there is mounting evidence that violations of women’s human rights remain unrelenting even in countries where legislative changes ... have been introduced to address VAWG” (Alexander-Scott et al., 2016: 35). One explanation is that reducing the prevalence of VAWG requires more than laws; it demands comprehensive, multi-pronged and multi-sectoral approaches, entailing a range of strategies and tackling a range of contributing factors (World Health Organization, 2014; Alexander-Scott et al., 2016; Abdul Aziz and Moussa, 2014; UN Women, 2013). Critically, these approaches must include efforts to promote gender equality, and to change negative attitudes and social norms (World Health Organization, 2014; Ertürk, 2008). VAWG must be made culturally and socially unacceptable, not just illegal (World Health Organization, 2014).

Importantly, however, laws and social norms are mutually reinforcing in the fight against VAWG. Strong, well-implemented, and well-publicized laws can affect social norms in positive ways, by establishing acceptable behavior and promoting attitudes and beliefs that reject VAWG (World Health Organization, 2014; World Health Organization, 2009), and by mobilizing social movements (Weldon and Htun, 2013). Conversely, legal reforms are most effective when public opinion on VAWG is already changing (Alexander-Scott et al., 2016).

The second reason that laws alone are not enough to eliminate VAWG – and the focus of this report – is that they are often poorly implemented.

## Implementation gaps

For legal frameworks to be as effective as they can be in the fight against VAWG, they must be enforced and implemented well (Alexander-Scott, 2016 et al., 2016). For states to fulfill their due diligence, any legal framework they establish to address VAWG must be put into practice (Manjoo, 2013). However, the implementation of VAWG laws is woefully inadequate (García-Moreno et al., 2014: 5; UN Women, 2012; Ertürk, 2006; UN Economic and Social Council, 2015), and this problem seems to pertain to VAWG laws more than laws on other topics (World Health Organization, 2014).<sup>17</sup>

It is worth noting that the implementation of laws is different to their effectiveness (Weldon and Htun, 2013). Effectiveness is about the extent to which the aims of the law in question have been met, for instance, a reduction in the prevalence of VAWG. Implementation, the focus of this report, is the process of enforcing or putting into action the provisions stipulated in the legislation, and certainly contributes to effectiveness.<sup>18</sup>

“Implementation gaps” – the failures and shortfalls between states’ legislative commitments and on-the-ground realities – have been identified by a number of organizations, experts, and academics (e.g., UN Women, 2012; Manjoo, 2013; Abdul Aziz and Moussa, 2014; Ertürk, 2008, 2006; UN Economic and Social Council, 2015). The gaps tend to fall into two main categories of activity: law enforcement and criminal justice processes, and the provision of services and resources to survivors and their dependants. Implementation gaps also pertain to prevention efforts, to the extent that the legislation includes these.

In relation to law enforcement and criminal justice, a sampling of the types of implementation gaps includes:

- police fail to properly register cases of VAWG, for instance, dismissing women’s complaints or referring women directly to NGOs;
- the arrest and prosecution of both the victim and perpetrator;
- protocols for investigating acts of violence are not followed, e.g., police officers do not collect evidence properly, or lawyers promote mediation and family reunification;
- protection orders are difficult to access or not enforced;
- women are not given the proper accompaniment or information to navigate legal processes;
- judges dismiss VAWG cases for lack of evidence, or afford cases insufficient importance;
- punishments do not fit the crime.

In the area of service and resource provision, survivors and their dependants may encounter the following implementation gaps, among others:

- non-existent, inaccessible, inadequately staffed, low-quality, or poorly resourced shelters, medical clinics, hotlines, counselling services, “one-stop centers”, secondary housing, etc.;

- access to services being contingent on certain conditions;
- lack of adequate referral or coordination mechanisms among different institutions and/or service-providers;
- services do not demonstrate a women-centered, human rights approach;
- absence of financial compensation or other restorative measures.

The case studies from the participant countries in this study will document types of implementation gaps in more detail, but suffice to say that laws on paper do not reflect women's and girls' realities of access to justice and to services (The World Bank, 2016).

## Reasons for gaps

Explanations for shortfalls in the implementation of VAWG legislation are as varied as the types of gaps themselves. They have been highlighted by several studies (e.g., Center for Global Development, 2015; Ertürk, 2008; García-Moreno et al., 2014; Manjoo, 2013; Rosche, 2013; World Health Organization, 2014; Abdul Aziz and Moussa, 2014; DFID, 2012; Ertürk, 2006; UN Economic and Social Council, 2015), and generally fall into political or legal, logistical, financial, human resources, and cultural categories. The often-cited reasons for implementation gaps include:

- **Political and Legal:** Lack of political will; continued use of traditional or customary laws and courts, especially in rural areas or in certain ethnic communities; and no regional or international political instruments to hold states accountable;
- **Logistical/Coordination:** Poor designation of lead implementing institutions and/or insufficient role clarity; weak coordination and communication among implementing actors, especially across sectors (e.g., NGOs and government); and insufficient collaboration and consultation with NGOs, especially WROs (both before and after legislation is passed);
- **Financial:** Insufficient or non-existent budget or funding – among both government departments and NGOs – for staffing, training, services, etc.; and non-existent or insufficient infrastructure;
- **Procedural:** Additional or different duties for implementing actors – especially in law enforcement, social services, legal aid, and the judiciary; and insufficient training, guidelines, or protocols on how to perform these duties and how to handle violence cases from a human rights perspective (often adopting a family welfare approach instead);
- **Cultural:** Social norms and individual attitudes that contribute to and normalize violence persist among the general public, survivors themselves, and implementing actors such as police and the judiciary.

The issue of political will merits brief elaboration, as some care needs to be taken with the term. It is sometimes over-used as a catch-all explanation, which can prevent a closer examination of specifically where – or with whom – the problems lie, or it is defined too narrowly as political leadership, which can mask the fact that change happens as a result of a number of different impetuses and actors (Green, 2009). This report draws on the definition of political will as the state's prioritization of VAWG as a critical concern, and the allocation of sufficient budget and other resources to realize the objective of eliminating it (Abdul Aziz and Moussa, 2014: 12). It requires – but should not be reduced to – strong political and institutional leadership at the highest levels of government.

Based on these reasons for implementation gaps, several studies have highlighted what is needed for improved and adequate implementation of VAWG legislation (e.g., Ertürk, 2008;

García-Moreno et al., 2014; Manjoo, 2013; World Health Organization, 2014; Weldon and Htun, 2013; UN Women, 2012; UN Economic and Social Council, 2015). Recommendations call for the reasons for gaps to be addressed, e.g., greater political will, adequate budgets, sufficient training and capacity-building, better coordination among actors, etc.

To fully realize the potential of the Due Diligence Principle in relation to VAWG, and for laws to play a more impactful role in eliminating VAWG, states must comply with the obligations they have set out for themselves by fully implementing these laws, and they should do so through meaningful collaboration with WROs in particular (Ertürk, 2006). Only in this way can sustainable progress be made “towards a conception of human rights compatible with our aspirations for a just world free of violence” (Ertürk, 2006: article 102).

# 4. THE RESEARCH PROCESS

The research informing this report was conducted between August 2015 and December 2015. Country reports, comparative analysis, and the compilation of this report were undertaken in 2016.

## Project design

Before research began, the Oxfam VAWG/GBV Knowledge Hub carried out a consultative project design and planning phase – guided by an advisory group – which included the selection of participant countries.<sup>19</sup> Countries were selected using a number of practical and strategic considerations, including geographic representativeness, feasibility of conducting the research, and usefulness and relevance of the research to Oxfam country offices' VAWG/GBV work.

It was intended that this project adopt a comparative approach that would allow “best practices” in legislation implementation to be highlighted. To that end, country selection entailed the inclusion of two “positive deviance” countries from the Global South – **Burkina Faso** and the **Dominican Republic**.

Several resources were consulted, from which Burkina Faso and the Dominican Republic emerged as having “better-than-average” implementation records. For instance, Burkina Faso has been praised by the World Futures Council for the implementation of provisions of its penal code that prohibit female genital mutilation/cutting (FGM/C) (Heisecke and Werner, 2014). Within the Latin America and Caribbean region, the Dominican Republic has been acknowledged for positive efforts by the government in collaboration with NGOs to reduce rates of VAWG, especially femicides (Global Foundation for Democracy and Development (GFDD)/Fundación Global Democracia y Desarrollo (FUNGLODE), 2014).

The other five participant countries were **Benin, Bolivia, India, Malawi, and Nicaragua**, where Oxfam country offices confirmed the problem of implementation gaps in VAWG legislation, and affirmed that the research was both feasible and needed.

In conversation with the Knowledge Hub, each Oxfam country office identified a specific piece of VAWG legislation on which to focus, one that had been enacted long enough ago to assess its implementation, and one whose implementation had been subject to critique.

Research in Burkina Faso and the Dominican Republic focused on which aspects of implementation efforts had gone well and why, and on providing lessons for actors in other countries, while the focus of research in the remaining five countries was primarily on implementation shortfalls and the reasons for them.

## Research in the seven countries

In-country research was carried out by research consultants and Oxfam staff, guided and facilitated by a Knowledge Hub project facilitator from Oxfam Canada. The project facilitator also conducted the literature-based research presented in Section 3, and conducted the comparative synthesis of the seven country reports.

The country-based research consisted of desk research and interviews. Desk research included a literature review, policy analysis, and identification of possible interview respondents. The

literature review was conducted to gather information about the context or situation of VAWG in each country, and to examine the findings of existing research or evaluations with respect to the implementation of the law being focussed on. The policy analysis examined the law/policy itself in detail to ascertain the government's stated obligations and how they were to be carried out, as well as how that law/policy came into being, and examined other relevant parts of the country's legal framework for contradictory or complementary elements.

Guided by the literature review and policy analysis, the researchers conducted interviews with four or five groups: government (politicians and bureaucrats/civil servants), CSOs, law enforcement, the judiciary, and traditional leaders (if feasible/applicable). Respondents were identified from both the lists generated by the researchers, and through snowball sampling.

The interview process was guided by a set of standardized lines of questioning for each group of actors<sup>20</sup> to ensure that comparable information was collected across the seven countries. The interviews were semi-structured; researchers addressed a standard set of themes but tailored the questions to respondents and contexts. The overall themes for all interviews were:

- a respondent and organizational profile;
- knowledge of the law/policy and how it was developed;
- involvement in implementation;
- assessment of implementation successes and shortfalls;
- funding/budget for implementation;
- monitoring of implementation;
- involvement in influencing for improved implementation.

In most of the countries, the interview questions were translated into local languages and re-worded as necessary.

The interview process adhered to research ethics protocols. Researchers sought from all respondents their consent to participate, either in written or oral form, having first provided them with an overview of the project, and information about: their rights as participants, how participating could affect them, how confidentiality would be addressed, and how information provided would be used. Researchers offered participants the option of personal and/or organizational anonymity, and asked for permission to audio record the interview.

In all, 117 interviews were conducted across the seven countries, with a total of 123 respondents.

Following the interviews, researchers transcribed recordings or wrote up detailed notes, assigning numbers or codenames to respondents who had requested personal and/or organizational anonymity. Researchers then carried out a thematic qualitative data analysis, while taking note of illustrative quotes.

The combination of desk research and interviews culminated in a country report from each research team, according to a template provided, again to facilitate a comparative synthesis.

## **Research challenges**

As with most research projects, limitations and challenges were encountered that will have affected the results. These are due to both the choices made in designing the research, and to circumstances that arose in the course of the research, as outlined below.

- There is significant variation in the type of laws, the kinds of violence they address, and the provisions they contain. This presented challenges for comparison of the results across the seven countries. As an example, there was some overlap between *types* of implementation gaps (shortfalls in what the law requires) and *reasons* for those gaps. For instance, poor coordination among groups of actors could be an implementation gap if the country's law requires it, but it could be a reason for other implementation gaps in another country.
- For both practical and ethical reasons, researchers did not consult women and girls who had experienced violence, instead focusing on actors that implement the laws and on CSOs that try to improve implementation.
- Despite efforts to standardize the research across the seven countries, there were still variations in terms of how many people the researchers were able to interview, from which groups of stakeholders, and what questions they were asked.

# 5. RESULTS: COUNTRIES IN PROFILE

The majority of information in this section is sourced from the country reports or the text of the laws in question.<sup>21</sup> However, original sources are provided for statistics and other indicators. For reasons of brevity, not all sections of the country reports are included in the profiles. For instance, recommendations to improve implementation in each country are not included here; instead they are synthesized in this report’s Key Messages and Lessons (Section 7). The full country reports or executive summaries are available to readers upon request.

## Countries and laws at a glance

Table 1 provides a snapshot of the legislation examined in each country. The laws fall into civil and/or criminal categories of law,<sup>22</sup> and about half of them cover specific types of VAWG, while the other half are more comprehensive.

**Table 1: Laws focused on**

Country	Type of legal instrument	Year passed	Criminal, civil, or other	Types of provisions	Types of violence addressed by the law
<i>Benin</i>	Stand-alone VAW legislation	2012	Criminal and civil	Prevention/detection Services Prosecution Punishment (civil, penal)	Various types of VAW
<i>Bolivia (two laws)</i>	Stand-alone VAW legislation	2012	Criminal	Prevention Protection/services Punishment (administrative, penal)	Various types of VAW
		2013	Criminal	Prevention Protection Services Prosecution Punishment (penal) Provision of redress	Political harassment and political VAW <sup>23</sup>
<i>Burkina Faso</i>	Revisions to the penal code	1996	Criminal	Punishment (penal, civil)	FGM/C
<i>Dominican Republic</i>	Legislation that revised the penal and other codes	1997	Criminal and civil	Protection orders Punishment (penal, civil)	Various types of VAW Violence against girls, boys, and adolescents
<i>India</i>	Stand-alone VAW legislation	2005	Civil	Protection and other orders Services	Domestic violence against women

<i>Malawi</i>	Stand-alone GBV legislation	2006	Civil	Protection and other orders Services	Domestic violence (gender-neutral)
<i>Nicaragua</i>	VAW legislation and revisions to the penal code	2012	Criminal	Prevention Services Protection Punishment	Various types of VAW

## Benin

Benin is a small West African coastal nation of 10.6 million people, over half of which (51.6 percent) live below the income poverty line (UNDP, 2015a). It ranks 166 of 190 countries on the Human Development Index (HDI), and has a Gender Inequality Index (GII) of 0.614 (UNDP, 2015a).<sup>24</sup>

According to available statistics from the past seven years, the prevalence of VAW in Benin is staggering: 69 percent of Beninese women have experienced some form of VAW in their lifetime (DPFG, 2012: 20). Of these, 86 percent have experienced verbal/psychological violence, 76 percent physical violence, and 44 percent sexual violence (Project EMPOWER, 2008: 37). In some regions, as many as 85 percent of women have experienced “deprivation of liberty”, meaning their mobility, actions, or decisions (e.g., to work or study) are significantly restricted or controlled by male partners (DPFG, 2012: 19). The government’s Centers for Social Promotion (CPS) received 14,479 cases of VAW in 2013 and 10,850 cases in 2014 (DPFG, 2014: 69), numbers which are discussed briefly below.

Research in Benin focused on Law 2011-26 of January 9, 2012 on the Prevention and Suppression of Violence against Women<sup>25</sup> (hereafter Law 2011-26). The objective of the law is to bring a multidisciplinary response to VAW, including prevention, protection, and punishment.

It is not easy to generalize about the implementation of Law 2011-26 because its text is so comprehensive, and because the research noted various degrees of failure and success in implementation. This profile presents both successes and shortcomings, according to each of the four main sections of Law 2011-26.

Awareness-raising, prevention, and detection:

- a significant amount of education and training has been done with implementing actors and other institutional leaders (e.g., religious leaders, journalists), but systematic and continuous training for social services, health, and judicial sectors is still lacking;
- the specialization of judges in VAW has been partially implemented, but in jurisdictions with large caseloads, VAW cases are often assigned to non-specialized judges;
- the stipulation that a woman’s testimony can be used as evidence tends to be applied only to non-criminal types of VAW. In cases of rape, other types of evidence are required, unless the woman wants to “re-categorize” the act to a less serious offense, which problematically downplays the violence and lessens the punishment;
- police officers have been criticized for being insensitive and for downplaying VAW cases, and staff in the judicial system may encourage women to drop their cases.

Rights of female victims<sup>26</sup> of violence:

- improvement in the services offered to survivors of VAW is underway, aided by Standard Operating Procedures (SOPs) and training;

- there are currently no shelters or state-run legal aid offices, psychological services are particularly lacking, and the three new One-Stop Centers are not sufficient to meet demand;
- the Ministry of Family increased the budget allocation in 2016 for the CPS for frontline work with VAW survivors;
- measures have not yet been undertaken to ensure violence-free workplaces, and the employment rights offered to women go no further than the minimum requirements set out in the current Labour Code.

#### Institutional framework:

- there are new public policies on VAW, including a multi-sector action plan; however, reporting to the National Assembly on the implementation of Law 2011-26 has not yet begun;
- despite the SOPs, there is no adequate structure to coordinate the actions of the sectors and actors involved in addressing VAW; because of this, interventions tend to be fragmented.

#### Civil and penal arrangements:

- rates of prosecution of VAW cases have been very low: in 2013 and 2014, roughly only 3 percent of VAW cases received by CPS went to court;
- cases of rape may be re-classified as “unlawful acts” (which may relate to the issue noted above of women’s testimonies being used as proof for less serious offenses only).

Benin can be commended for the progress made in some aspects of the implementation of Law 2011-26. Indeed, the high number of VAW cases reported in 2013 (14,479) is in part attributable to an awareness-raising campaign that followed the enactment of the law in 2012, which resulted in more women reporting. (The drop in 2014, however, to 10,850 reported cases, has been blamed in part on women no longer using the CPS offices because staff there were not able to keep up with demand for services). Oxfam in Benin has played a key role in demanding that the government live up to its commitments. By 2013, the government still had not published Law 2011-26 in the Official Journal or passed any decrees to facilitate implementation. To pressure the state, Oxfam in Benin launched a campaign in March 2013 under the slogan, “The Law on VAW is Enacted, Let’s Have the Decrees!”

Ongoing implementation gaps can be attributed to a number of factors, listed below.

- Name and content of the law: its focus on violence against women specifically causes offense to men, including those responsible for implementing it. And applying it is difficult because it contains so many types of violence and categories of offenses;
- Lack of coordination among actors, which is hampered by lack of clarity about which government ministry is supposed to lead the coordination;
- Lack of financial resources: The budget of the Ministry of the Family, Social Action, National Solidarity, the Handicapped [*sic*], and Senior Citizens (MFASSNHPTA) – from which VAW-related work is funded – is less than 1 percent of the total national budget;
- Corruption: Cases of violence are sometimes “discontinued” because implementing actors respond to bribes or other means of familial, social, or political pressure;
- Lack of political will: Low budget allocations and no reporting to the National Assembly are presented as evidence of this;
- Staff turnover and lack of continuous training among implementing actors, especially among police officers and judicial personnel;
- Attitudes, norms, and beliefs: Traditional, religious, and ancestral leaders – who tend to promote beliefs that encourage gender inequality – play significant roles in the resolution of family conflicts in Benin, and strongly influence the actions of implementing actors in state-mandated institutions.

## Bolivia

The Plurinational State of Bolivia is a South American country of 10.8 million people (UNDP, 2015a), approximately 41 percent of whom self-identify as Indigenous (INE 2013: 31).<sup>27</sup> It ranks 119 on the HDI and has a GII of 0.444 (UNDP 2015a).

A national survey about women in Bolivia indicates that 44 percent of women have experienced psychological violence, 36 percent have experienced physical violence, and 15 percent sexual violence (Coordinadora de la Mujer, et al., 2014: 102). According to information from the Ministry of Government, in 2015 alone, 42,061 VAW-related crimes were reported (Ministerio de Gobierno, 2016). A significantly higher percentage of Indigenous than non-Indigenous women have experienced VAW (54 percent vs. 39 percent) (Coordinadora de la Mujer, et al., 2014: 107). The research in Bolivia also examined political violence against women (defined in endnote 23) of which almost 300 reports were made between 2010 and 2014 (ACOBOL, 2014: 1).

Bolivia was the only country in the study where two pieces of VAW legislation were examined:

- Law 348, the Comprehensive Law to Guarantee Women a Life Free from Violence (2013)<sup>28</sup> includes 16 types of VAW. It establishes mechanisms, measures, and policies for the prevention of VAW, response to VAW (through attention, protection, and reparation for women), and the persecution and punishment of perpetrators.
- Law 243, the Law against Political Harassment and Violence against Women (2012)<sup>29</sup> targets violence against women who participate in political life – as candidates, elected officials, and bureaucrats, among others. It contains provisions to prevent and punish acts of political harassment or violence, support victims, and nullify any action carried out by women as a result of political harassment or violence.

The analysis of implementation of Law 348 focused on “*la ruta crítica*”,<sup>30</sup> the “critical path” or process women can follow after experiences of violence. There are serious deficiencies here. According to an interview with a member of the Alianza Libres de Violencia, an organization that has monitored the application of the Due Diligence Principle and of Law 348 in Bolivia, only 1.7 percent of reported cases in 2015 were prosecuted and only 0.25 percent resulted in sentencing. There are three stages or entry points in *la ruta crítica*, and shortfalls were found with each one, as outlined below.

- Municipal Comprehensive Legal Services (SLIMs) – These centers are mandated to receive reports of violence, and provide medical and other support services, including the preparation of complaints for the Attorney-General.

Complete services are rarely available in rural areas, and only 30 percent of municipalities have begun constructing women’s shelters. Existing urban services need improvements, especially permanent, specialized staff.

- Special Force for the Fight Against VAW (FELCV), part of the National Police – Officers are supposed to write up reports bound for the Attorney-General, give women information, and accompany them to a medical center if needed.

Many officers act on the basis of prejudices and often re-victimize women. It is also reported that officers falsely state that, if women sign their complaints, those complaints cannot be retracted and perpetrators will surely be tried and sentenced to prison. Out of fear and uncertainty, many women decide not to sign complaints.

- The Office of the Attorney-General (A-G) (public prosecutor) – If a woman has a lawyer, she can go directly here. The A-G refers cases to a Public Prosecutor Specialized in Violence (FEPVA), who assigns police investigators and is supposed to provide women (and children) with 14 measures of protection. The investigation must not require the active participation of the victim, and can only take a maximum of eight days.

Often, no protective measures are provided, or if they are, the woman is often unlawfully asked to inform the perpetrator. Prosecutors have also been known to encourage women to reconcile. Moreover, investigations often require women's proof or active participation, and can take as long as 90 days.

If cases do reach the court, there are not enough judges specialized in VAW. Even specialized ones often show ignorance about VAW and gender issues, and judge cases based on their own personal values and conceptions.

Reasons for weaknesses in the implementation of Law 348 include:

- lack of training and awareness among implementing actors – about the law and VAW;
- high levels of staff turn-over: Workloads are often unmanageable, and work on VAW is under-resourced and not accorded career prestige. Because staff frequently change, training is not prioritized;
- lack of financial resources: Some budgeted funds have not been allocated because the regulations required for these transfers are not in place;
- social norms and attitudes: Many implementing actors think and act in ways that reflect the patriarchal Bolivian society.

There are some successes to note regarding the implementation of Law 348, however: the Ministry of Communication has raised awareness about the Law and available services; the Ministry of Education has approved a protocol for handling cases of sexual violence in educational settings, and has plans to include violence prevention themes in curricula; and the Ministry of Health has designed a special certificate to be provided by any medical center to a woman who has experienced violence, for easier access to other services.

As for Law 243, according to Asociación de Concejalas de Bolivia (ACOBOL), an organization representing counsellors in Bolivia, more and more cases of political violence are being reported, which suggests that awareness-raising of the law is proving effective. The Supreme Electoral Tribunal has approved regulations for addressing political violence among female councillors, and has instructed all political organizations to address political violence and harassment in their statutes.

However, since Law 243 was passed in 2012, only 72 of the 272 reports of political violence or harassment have resulted in legal action, and of these, only 13 cases have been resolved, none of which resulted in criminal proceedings (ACOBOL, 2014: 1). A key implementation gap is the lack of protective measures for victims, which puts them at risk of further aggression from perpetrators.

Many of the same reasons for implementation shortfalls of Law 243 also apply with respect to Law 348, but these shortfalls are compounded by a lack of both regulation to accompany the law and protection for women who report, and the number of bureaucratic and expensive procedures needed to enforce the law.

## India

The second most populous country in the world, India has a population of 1.21 billion people (UNDP 2015a). Almost a quarter – 23.6 percent – of its residents live below the income poverty line. It ranks 130 on the HDI, and scores 0.563 on the GII (UNDP 2015a).

The third round of the Indian National Family Health Survey 3 (NFHS) conducted in 2005–06 found that 39.7 percent of ever-married women aged 15–49 years have faced some form of domestic violence (International Institute for Population Sciences and Macro International, 2007: 509). More recently, a study by the International Center for Research on Women reported that

60 percent of men admit to having perpetrated violence against women (Nanda et al., 2014: 38). Dowry-related violence – including murder – is a significant problem.

Research in India focused on the Protection of Women from Domestic Violence Act (PWDVA). Domestic violence is criminalized in India by the penal code. The PWDVA, passed in 2005, is civil legislation. While some see this as a weakness, or question the need for parallel legislation, the PWDVA provides important avenues of access to justice and services for women who may not want to proceed with a criminal prosecution. Furthermore, it makes the definitions of domestic violence more comprehensive than the penal code, for instance, including economic and emotional forms of abuse.

The provisions of the PWDVA that the research investigated relate to reporting processes, civil court proceedings, and provision of services to women who experience violence. To lodge a complaint under this Act, a woman or her representative contacts a protection officer (PO) who is supposed to inform her about her rights, connect her to the court and to service providers, do a small investigation of the case, and write up a domestic incident report (DIR). The PO has to submit the DIR to the court within three days of receiving the complaint, and the court must pronounce judgment within 60 days of receiving the DIR.

The implementation weaknesses have significant implications for the availability and quality of services for women who have experienced domestic violence.

- The state governments are not appointing enough independent, full-time POs, especially at the sub-district level. POs tend to be hired on contract, or have PWDVA implementation added to their existing responsibilities.
- Many states have not formally appointed service providers – a process called “notification” – or have made these appointments without augmenting services providers’ resources, or even informing them.
- While the Act defines roles and procedures, they do not seem to have been effectively communicated to stakeholders. For instance, police respondents were unaware of their role or responsibilities under the Act, and POs may not know about the service providers to which they can refer women.
- Many actors – POs, police officials, medical practitioners, and magistrates – do not understand domestic violence issues, are insensitive or disrespectful, or blame victims. And POs and police officials often dissuade women from filing cases.
- In most districts, the only services available are shelter homes – and women in more remote areas may not even have access to these – and most do not offer other immediate services that women may need.
- The average time for a court to make a judgment on a DIR is 275 days in the Odisha region, and non-compliance with court orders is very high because no effective mechanisms exist to ensure they are enforced.

The research revealed a set of key reasons that explain these implementation gaps.

- It was suggested that implementation of the PWDVA – and the issue of domestic violence more generally – is not a governmental priority.
- Low levels of awareness about the PWDVA, which contributes to the difficulties women experience in accessing justice and services, and to their reluctance to report violence.
- Attitudes, beliefs, and social norms, which contribute to unhelpful behavior by some implementing actors. For instance, police officers often just attribute domestic violence to alcohol problems, and judges have been reported to handle civil domestic violence cases less urgently than other types because they believe these cases weaken their career portfolios.

- Lack of convergence and coordination among stakeholders, such as among POs, service providers, and magistrates in relation to a court order.
- Lack of monitoring and evaluation: For instance, no government-led monitoring of the Act was reported, and until recently, there was no provision for POs to be informed of the judgments on DIRs they had filed.
- Insufficient funding and infrastructure, which contribute to an over-burdened, under-resourced system. The central government has not provided the states with enough funding, especially for POs and for adequate service provision.

## Malawi

Malawi is a landlocked country in south-east Africa with a population of 17 million people (The World Bank, 2016), and 72 percent of its residents living below the income poverty line (UNDP 2015a). It ranks 173 on the HDI and scores 0.611 on the GII (UNDP 2015a).

The research undertaken in Malawi focused on domestic violence. According to the 2012 official survey data on GBV, 25 percent of respondents had experienced physical violence (of whom 64 percent were women), and 35 percent of respondents had experienced sexual violence (of whom 61 percent were women) (National Statistical Office of Malawi, UNFPA and UN Women, 2013: np). The vast majority of these incidents occurred in the home. Representatives from CSOs interviewed for the research emphasized the high prevalence of economic and psychological/emotional forms of domestic violence.

The legislation focused on in Malawi was the Prevention of Domestic Violence Act (PDVA), enacted in 2006. This Act seeks to prevent domestic violence, and to provide protection, services, and legal remedies to persons affected.

Although the PDVA defines domestic violence as a criminal offense, it is not criminal legislation and does not prescribe punishments for perpetrators. Instead, it provides for various legal remedies, including protection orders, occupation orders, and tenancy orders; and for services including counselling, shelter, food, and medical care. It mandates duties of the police, the judiciary, the Minister of Gender, and non-governmental service providers. The PDVA is accompanied by two sets of guidelines: for One-Stop Centers, and for Victim Support Units (VSUs) of the police.

Some progress on implementation of the PDVA was noted in Malawi, including: some public awareness-raising (e.g., pamphlets about the PDVA in local languages); some training of implementing actors; some provision of legal aid; new construction of VSUs and One-Stop Centers; better coordination among actors; and some community by-laws.

Despite these markers of progress, the PDVA has suffered from significant implementation challenges, of which the research emphasizes the following:

- limited use of protection, occupation, and tenancy orders: for instance, VSUs often refer cases to the court for divorce proceedings or to alternative dispute resolution, and there are significant judicial delays in processing these orders;
- insufficient enforcement of court orders;
- poor service provision and infrastructure: most VSU offices do not handle complaints confidentially or provide basic provisions of temporary shelter; One-Stop Centers are not present in all regions, or not all services are offered in one place; there are not enough rehabilitation centers or temporary shelters, and some are populated by people other than survivors of violence, or staff do not have the capacity to assist survivors; and counselling services are poor or non-existent.

These implementation gaps in Malawi can be explained by the following types of reasons:

- Cultural: Enforcement of court orders is particularly hampered by the patrilineal marriage system in some districts in which a wife lives in her husband's village. Cultural attitudes and norms concerning VAW also contribute to reluctance among police officers to intervene, or the tendency to refer cases to alternative dispute resolution mechanisms.
- Financial: Many women are financially dependent on their husbands, so if they are victims of abuse by their husbands, they fear that crucial financial support for the family will be lost in the event that the husband is brought before the law. Some women cannot afford the travel costs to access courts or police stations far from their home, or the costs of fees, which, in some instances, are illegally charged.
- Fiscal: Many police stations and service providers lack the financial resources necessary to fully implement their responsibilities.
- Political: Some police officers hesitate or refuse to intervene in domestic violence cases, in part because domestic violence cases are de-prioritized compared to the attention (and funds) given to other types of crime.
- Procedural: Enforcement officers and VSU officers, in particular, have not been adequately informed or trained; frequent transfers of police officers result in shortages of trained personnel; and there is insufficient "gazetting" of service providers (meaning they have been designated by the government and adequately equipped).

## Nicaragua

Nicaragua is a Spanish-speaking Central American nation of just over six million people. It ranks 125 on the HDI and has a GII of 0.449 (UNDP 2015a).

Statistics on VAW in Nicaragua are available from both official reports and surveys. In 2014 alone, the Attorney-General received over 51,000 cases of VAW, and categorized 38 cases of murders of women as femicide (Ministerio Público de Nicaragua, 2014: 10, 19). A demographic and health survey conducted in 2011/12 found that one in four urban women and one in five rural women had experienced physical or sexual violence, and almost half of urban women and over a quarter of rural women had experienced verbal or psychological violence (INIDE and MINSAs, 2013: 42).

The research focused on Law 779: "Comprehensive Law against Violence against Women and Reforms to Law 641, the Penal Code",<sup>31</sup> passed in January 2012, and subsequent reforms. Law 779 was created in response to the government of Nicaragua's commitment to international human rights instruments, and the advocacy of the Nicaraguan women's movement.

Law 779 aims to protect the rights of women by guaranteeing them a life free from violence. It sets out measures of assistance, protection, punishment, and prevention, and identifies the appropriate actors of *la ruta de atención* (the "support route").<sup>32</sup> It outlines the responsibilities of the judiciary, a unit of the Attorney-General specialized in GBV, a police commission for women and children, and a new National Inter-institutional Commission for the Fight Against VAW.

Law 779 was accompanied by the Model of Comprehensive Assistance to Women Victims of Gender-based Violence in Nicaragua (MAI), a set of guidelines and procedures for the institutional actors involved in women's access to justice and services.

In 2013 and 2014, reforms were made to Law 779.<sup>33</sup> The Reforms overturned the prohibition of mediation between survivor and perpetrator, gave the President power to regulate the law, and restricted the definition of femicide to acts occurring only in intimate relationships. Overall, the reforms promoted a more family-based understanding of violence.

Since these laws were passed, some good progress has been made on addressing VAW:

- The new National Inter-institutional Commission for the Fight Against VAW was created; it is responsible for coordinating 14 institutions, creating a national policy, and establishing a monitoring observatory and a statistical system.
- The work of the Commission for Women, Children, and Adolescents (of the National Police) was amplified, leading to the creation of many new community-level *comisariás* (women's desks at police stations), where women generally receive good treatment.
- Some new specialized services have been set up, such as 18 new judicial units specialized in GBV.
- The office of the Attorney-General established the Unit Specializing in Assistance to Victims of Gender-based Violence in 2014. Its staff provide accompaniment services to women.
- Resources have been invested in the capacity-building of actors in *la ruta de atención*.

Despite these positive aspects, there are some weaknesses in the implementation of Law 779 and the Reforms. First, the Reforms have made the implementation of Law 779 somewhat more complicated, leading to confusion among institutional actors, and changes to the process for women seeking help. For instance, when women go to the police commission wanting to report violence, they are often told they have to go first to a government office run by the Ministry of the Family, or police may encourage women to mediate or reconcile with their partners.

In general, the following other implementation problems were noted:

- At the police commissions, some staff have not been sufficiently trained about the laws or how to apply them; sometimes people accompanying women are not treated well; and alleged perpetrators are often not detained unless women have suffered serious physical harm.
- At the Office of the Attorney-General, some prosecutors are not preparing reports of violence as well as they should be, resulting in cases being thrown out by judges; prosecutors are not familiar enough with the cases they are working on; and sometimes protection measures are not granted.
- In the judicial system, hearings are often rescheduled and delayed; the laws are not always applied in a consistent manner; medical experts' reports are sometimes not carried out professionally enough; and women often do not receive any compensation.
- In protection services, there are not enough state-funded shelters; many women have to use services offered by women's organizations, which do not have sufficient funding.

Some of the reasons for these challenges have to do with complexities caused by the Reforms to Law 779, but there are other explanations, such as:

- inadequate coordination among actors, and exclusion of women's organizations;
- insufficient financial resources, especially for shelter services;
- weaknesses in monitoring and evaluation: Law 779 assigned responsibility to the inter-institutional commission, whereas the regulations following the Reforms assigned it to the Ministry of the Family. A monitoring observatory has also been set up, but there is some question about whether it is fully operational;
- insufficient knowledge of the law: the government has conducted effective awareness-raising activities, but these have focused more on the Reforms than on Law 779.

## Burkina Faso

Burkina Faso is a small, land-locked West African country of 17.5 million people. It ranks 183 of 190 countries on the HDI and almost half (44.5 percent) of its residents live below the income poverty line. It has a GII of 0.631 (UNDP, 2015a).

The research in Burkina Faso focused on female genital mutilation/cutting (FGM/C), specifically cutting.<sup>34</sup> Data from Burkina Faso's National Action Plan on FGM/C found in 2013 that 61 percent of women and girls surveyed (aged zero to 60 years, with mothers reporting for girls younger than 15 years of age) had experienced FGM/C. Most cutting occurs between the ages of one and four years (SP/CNLPE, 2014: 12). The vast majority of those performing FGM/C are poorly educated women, without medical training, who perform cutting to earn an income. The procedure is usually performed under non-sterile conditions, which poses additional health threats beyond those caused by the procedure itself.

Burkina Faso is one of two “positive deviance” countries in this research project. In a recent report, the World Futures Council commended Burkina Faso for the implementation of revisions to its penal code in 1996 that criminalized FGM/C, noting declines in prevalence rates, and increases in arrests and sentences (Heisecke and Werner, 2014).

Research in Burkina Faso examined the implementation of these penal code provisions, found in Law No. 043/96/ADP of 13 November 1996 on the Penal Code<sup>35</sup> (hereafter Law 043/96). Three articles in particular – 380, 381, and 382 – address FGM/C and lay out fines (up to 900,000 FCFA, or CAD \$2000) and imprisonment terms (up to ten years). These punishments apply to those who commit or attempt to commit FGM/C – including accomplices – and those who were found to be aware of an act of FGM/C but did not notify authorities.

A state-led, multi-sector institution called the National Council for the Fight against the Practice of Excision (CNLPE) had been established in 1990, made up of representatives from government, civil society, and traditional and religious leaders. The Permanent Secretariat of the CNLPE (SP-CNLPE) was created in 1997, led by the Ministry of Social Action and National Solidarity.<sup>36</sup> It assumed responsibility for the implementation of the penal code provisions, as part of a wider mandate that includes coordination, awareness-raising and training, prevention, research, resource mobilization, and reparations for women and girls who have been cut.

For ten years after Law 043/96 was passed, enforcement was relatively weak. Among the cases tried in court, there were too many suspended sentences and instances of reoffending. These cases highlighted the lack of appropriate facilities for female prisoners, and the problems with incarcerating older women and mothers of young children. The lack of “real” punishment sent the message that cutters had done nothing wrong.

In 2007, the CNLPE convened a meeting to address constraints to implementation. New strategies were then adopted, including: more advocacy toward and training for institutional actors; more awareness-raising for the public and influential leaders; public hearings intended to increase access to justice for local populations, in their own villages, and to sensitize them to the harmful effects of FGM/C; the adoption of the National Action Plan (2009–13) to Promote the Elimination of the Practice of FGM/C, aimed at zero-tolerance by 2015; and the creation and implementation of another action plan (2010–12) – by the Ministries of Justice, Defense, and Security – for the popularization and implementation of the law.

Then, in 2008, Burkina Faso joined a joint UNFPA-UNICEF multi-country program to eliminate FGM/C. The program has two phases (2008–13 and 2014–17), and focuses to a large extent on awareness-raising and capacity-building of institutional actors. The SP-CNLPE leads the implementation of the program in Burkina Faso, in collaboration with local and international partners. In 2014 alone, Burkina Faso received one million dollars in funding from this program.

By the end of 2014, some positive results were noted, such as:

- According to information obtained in an interview with the Department of Documentation and Communication of the SP/CNLPE, 107 incidents of FGM/C were reported via the Green Phone (an anonymous and free means to report cases), a further 186 cases were reported through other means, and FGM/C was averted for 123 girls.<sup>37</sup>
- Over 200 people were sentenced to prison terms (Ministère de la justice, 2015: 174)
- In 2014 alone, public hearings resulted in the sentencing of 2 cutters and 21 accomplices (Jenson and Helmore, 2014: 48).
- The UNFPA-UNICEF program had achieved considerable quantifiable results in awareness-raising and training activities, encouraging local politicians and leaders to commit to abandoning FGM/C, and offering surgery to women and girls to repair the consequences of cutting (UNFPA and UNICEF, 2014; UNFPA and UNICEF, 2013).

More recently, other positive developments include adoption of a mayors' charter, a National Action Plan (2014–17) to implement FGM/C-related recommendations from the United Nations Universal Periodic Review in 2013, and a new comprehensive VAWG law was passed in 2015 that criminalizes “cultural violence” (although it does not name FGM/C explicitly).<sup>38</sup>

Some statistics suggest that FGM/C is declining in Burkina Faso:

- The 2010 Demographic and Health Survey found that, among women aged 15–49, 73 percent had been cut by age 14, whereas only 30 percent of girls actually aged 14 at the time of the survey had been cut (INSD and ICF International, 2012: 294).
- The report of the National Action Plan cited above found that the prevalence among girls aged 0–15 was only 3.9 percent, which – if accurate – would represent a decline of over 75 percent since 2006 for this age group (SP/CNLPE, 2014: 12).

However, these statistics must be read with considerable doubt and caution, and they point to some of the challenges in implementing the FGM/C provisions of Law 043/96. One is the issue of reporting. People may be dissuaded from doing so because they are more aware of the punishments contained in Law 043/96 (SP/CNLPE, 2014). Furthermore, those who report FGM/C often face marginalization or backlash in their communities, and are afforded no protection from authorities. So while it may appear that prevalence is decreasing, it could be that the focus on criminalization, coupled with social norms in support of FGM/C, have had the negative effects of reducing reporting and making the practice more clandestine.

In addition to issues of reporting, the relatively low numbers of tried cases and prison terms have been attributed to other problems with the implementation of the penal provisions, especially corruption in the handling of cases, and difficulties with incarcerating female cutters, an issue which merits more discussion. There are no adequate, separate prison arrangements for female prisoners, and a few research respondents recommended that this infrastructure be improved. This is a contentious recommendation, however, because it emphasizes the criminalization of female cutters, who, from a certain perspective, can be seen as victims, i.e., pushed by social norms, community leaders, and men to continue a practice that they may not personally support. (On the other hand, they can be seen as acting with agency, pursuing an income by performing a practice that is still accepted, where there are few other income-earning opportunities.)

Among the challenges for prevention, the research emphasized that interventions often do not address the behind-the-scenes involvement of men in perpetuating the practice, that parents often have FGM/C performed in neighboring countries where the practice is not illegal or where laws are more weakly enforced, and that there are concerns about sustainable funding for eliminating FGM/C in the absence of the UNFPA-UNICEF program, which is in its last year.

Even though FGM/C prevalence may not be diminishing to the degree suggested by official statistics, and many challenges remain, Burkina Faso does offer some insights about the importance of certain tools and practices in the fight against FGM/C and VAWG more generally. It suggests that countries need:

- a clear and concise legal framework that is accompanied by: plans and policies (including at the municipal or community level), strong and sustained political commitment at the highest levels, a specific state institution mandated to implement the law, multi-stakeholder structures to coordinate and evaluate actions, and training for judicial, law enforcement, and other institutional actors;
- effective advocacy and lobbying led by individuals and organizations committed to the cause;
- the combination of penal approaches and prevention strategies – many of these made possible by international funding – that lower the acceptance of the practice, including public denouncement of FGM/C by influential actors and institutions at the local level, awareness-raising campaigns for the general public, and projects by CSOs and NGOs using the approach of Information/Education/Communication for Changes in Behavior.

## Dominican Republic

The second “positive deviance” country in the study, Dominican Republic is a mostly Spanish-speaking Caribbean island nation with a population of approximately 10.5 million people, of which 40 percent live below the poverty line (The World Bank, 2016). It ranks 101 on the HDI and has a GII of 0.477 (UNDP, 2015a).

More than one-quarter of Dominican women (aged 15–49) have experienced physical violence, and 10 percent sexual violence (CESDEM and MSP, 2014: 318, 323). Rates are higher among less-educated and poorer women, and among pregnant adolescents (Ibid.). The Dominican Republic also has the third highest rate of femicide in the Latin America and Caribbean region (CEPAL, 2014).

Although VAWG continues to be prevalent in the country, government efforts to eliminate and address VAWG have been well-documented and recognized at the regional and international levels. Research examined the implementation of “Law 24-97 that Presents Modifications to the Penal Code, Code of Criminal Proceedings, and Code for the Protection of Boys, Girls, and Adolescents” (hereafter Law 24-97),<sup>39</sup> enacted in January 1997. The research focused specifically on reforms to the Penal Code that criminalized GBV, intra-familial violence, and sexual violence against women.

Law 24-97 is a piece of criminal legislation, except for the protection orders it mandates, which are civil in nature. Punishments are jail time and/or fines. The law has some shortcomings and was not accompanied by budgetary resources, but among its strengths, Law 24-97 names and defines many types of GBV, and calls for rehabilitation measures for perpetrators. On the whole, the law is recognized as a success for women’s rights. The government was driven by political commitments – such as its 1996 ratification of the Convention of Belem do Pará – but pressure by well-organized feminist and women’s movements<sup>40</sup> was pivotal in ensuring that Law 24-97 passed. Law 24-97 also contributed to several subsequent legal reforms related to gender, women’s rights, and VAWG.

As a result of Law 24-97, many positive improvements have been made to respond to the needs of women *on la ruta crítica*<sup>41</sup> following experiences of violence. Key to this was the creation and improvement of the following institutional infrastructure. According to information obtained in interviews:

- The Attorney-General set up 18 comprehensive care units, mainly aimed at assisting survivors with legal recourse, and created a set of protocols and guidelines for this work.
- The Behavioural Intervention Center for Men was set up, which aims to change behaviors of male perpetrators through therapeutic and training programs. To date, there are three such centers, and they have worked with 12,500 men, in many cases successfully.
- The Supreme Court adopted a policy and created a commission on Gender Equality and Judicial Power, and created the Judicial Observatory against Intra-familial and Gender-based Violence, with the responsibility of tracking sentences in VAW cases.
- The Women's Ministry led the creation of the Program for VAW Prevention and Assistance, which includes three shelter homes, prevention campaigns, and training on VAW.
- The Ministry of Health led the establishment of an Equality, Gender and Development Office in all ministries and in the police, which works on mainstreaming gender into all areas of state activity and provides gender and VAW training.
- The National Police created a Specialized Office for Attention to Women and Intra-familial Violence in the capital city, with plans to expand to other parts of the country.

Other positive practices have resulted from Law 24-97, including: a review of the sentences in VAW cases; training of judges in gender mainstreaming and about errors committed most often in the adjudication of VAW cases; and publication of materials by different government offices, intended for use in awareness-raising and training with women at the community level.

Part of the explanation for the strengths in the implementation of Law 24-97 could be that it has existed for 20 years, much longer than any other law examined in this research, with the exception of Burkina Faso. However, the analysis reveals two key contributing factors.

- First, multi-stakeholder coordination and cooperation, especially between and among government ministries, support the implementation of Law 24-97. As continued proof of this, in a coordinated effort to further improve upon Law 24-97, several government departments have worked on the development of a new Bill for the Prevention, Punishment, and Eradication of Violence Against Women. It was introduced to Congress in 2013, but, at the time of writing, has not yet been passed.
- The second is the fact that civil society and feminist organizations have worked tirelessly and in a highly coordinated way for the implementation of Law 24-97. They have lobbied and worked with the government, and called public attention to the government's obligations. The effectiveness of these organizations can be attributed to their capacity to mobilize, influence, train, and share good practices; their creativity in awareness-raising; and the creation of inter-sectoral and inter-institutional networks through which they have become sought-after experts for the government.

Although the Dominican Republic figures in this study as a positive example, implementation shortfalls also emerged in the research, including:

- insufficient involvement and coordination among other institutions that should be involved, such as Public Health and the Minister of Education;
- over-emphasis on domestic violence, to the detriment of addressing other types of VAW;
- the body responsible for monitoring the success and impacts of Law 24-97 – the National Commission for the Prevention and Fight against Intra-familial Violence – not being sufficiently effective;
- women who experience violence not receiving any compensation.

The following reasons were raised to help explain these deficiencies: inadequate consideration of or budgeting for the costs of implementation of the law; ongoing lack of political will; continued weaknesses in awareness and training on Law 24-97, especially for actors in *la ruta crítica* (contributing to the re-victimization of women); and insufficient attention to prevention and the root causes of violence. The implementation of Law 24-97 presupposed a dramatic change in *machista* social norms in the country, which has not happened, owing to an entrenched androcentric and patriarchal system.

# 6. RESULTS: COUNTRIES IN COMPARISON

## IMPLEMENTATION SHORTFALLS

It is difficult to do a direct comparison of the types of implementation gaps across the seven countries because, as mentioned previously, the provisions of the laws differed (and therefore, so did the types of shortfalls). However, the following three categories capture a great deal of what was observed across the seven countries. All quotes in this section are from the country reports.

### 1. Gaps in processes and procedures

First, almost every law examined requires that specific procedures be followed by implementing actors, most notably by law enforcement and judicial actors. Many weaknesses were evident in this regard, with consequences that threaten women's rights to protection and access to justice. For instance:

- In Benin, the stipulation that a woman's testimony can be used as evidence is often only applied to non-criminal types of VAW. Many women who could take advantage of this stipulation for serious offenses are encouraged to re-categorize the offenses to less serious ones.

*This brings the risk of downplaying sexual crimes because the perpetrator is not punished to the same degree for a sexual misdemeanour as for a sexual crime. "To de-criminalize a crime is to deny and renounce the crime; it also denies and renounces the victim."*

Benin report

- In Bolivia, women are often granted none of the required measures of protection. They are asked to participate in investigations, which is unlawful, and investigations take, on average, 22 days longer than required.

*The public prosecutor does not use any of the 18 measures of protection ... measures that should be used to protect the victim from further attack. Here there is a lack of knowledge among prosecutors about the nature of violence and a disregard for the inherent dangers.*

Bolivia report

- In India and Malawi, one of the first steps in preparing actors to implement the law is to inform them that they are required to do so and what their responsibilities are. This process of "notification" or "gazetting" is to generate a list of stakeholders and service providers so that referrals can also be made. There are serious deficiencies here. For instance, in Malawi:

*"Service providers are not gazetted as provided under the Act. If they were gazetted, they would make a great difference as they would be oriented on what is expected of them, the list would be available to all stakeholders to share with the masses and they could also be held accountable."*

A member of the Ministry of Gender, Malawi

- Also in Malawi, law enforcement actors too often neglect their duties under the PDVA, for instance, merely referring cases to court for divorce proceedings, or not enforcing court orders.

## 2. Gaps in infrastructure and services

Second, many of the laws require – or suppose – that infrastructure and services will be created or improved to meet the needs of women and girls who have experienced violence, and to meet demands of the penal system. However:

- in Benin, some improvements in service provision were noted, but there are no shelters or state-funded legal aid services, and psychological services are particularly lacking;
- in Bolivia, services are rarely available in rural areas, and only 30 percent of municipalities have built women’s shelters,
- in Burkina Faso, as discussed above, there are no separate or appropriate detention facilities for women who are convicted of FGM/C-related crimes.

*The lack of separate quarters for women in most prisons, as well as their age and status as mothers of young children or nursing, prevents their incarceration, which explains the high number of suspended sentences.*

Burkina Faso report

- In India, the only infrastructure available is shelter homes, though these are only found in larger urban areas, and they often do not offer women the basic services they may need. Furthermore, protection officers and police officials frequently are left with no options as to where to refer women.

*“We cannot keep women in the police station after sunset and here we have shelter homes in towns only, not in villages.”*

A police officer, India

*“Where will she and the kids go? She has to wait until the court orders [are issued] which takes time”*

A police officer, India

- In Malawi, there are significant shortages of temporary shelters, counselling services, and One-Stop Centers that offer comprehensive services.

## 3. Gaps in the treatment of women who experience violence

Third, good implementation of services and judicial procedures requires that women and girls who experience violence be treated with respect and sensitivity as bearers of human rights, and not be re-victimized (e.g., made to recount their experiences repetitively, or having their choices controlled by others). For many women who try to access services or demand justice, this is not the reality:

- In Benin, police officers have been criticized for being insensitive and downplaying VAW cases, and judges may encourage women to drop their cases.

*“You come [to a judicial police officer], you say, ‘He slapped me.’ He’s going to say, ‘A simple slap, that’s what made you come here?’ Or you say, ‘I was raped.’ And he says, ‘Well now! What do you mean? I need to be convinced of that, I’ll need to do a test myself to see what has resulted.’”*

A legal practitioner, Benin

- In India, protection officers and police officials too often dissuade women from filing cases:

*There is a systemic effort to dissuade her from filing a case. [The police] have also defended it as something done in the interest of the woman herself, to shield her from a long and tedious legal battle. A police officer state[d]: “Our first priority is to get a patch up done. We don’t want a bad ending for marriage.”*

A police officer, India

- In Bolivia, police procedures tend to re-victimize women, and judges show considerable ignorance about VAW and gender issues:

*The police officers that receive the report ... they don’t proceed according to the law – offering dignified treatment to victims; instead they act on the basis of prejudice and in actual fact re-victimize those who report because they make them go [mentally and emotionally] through the instances of abuse.*

Bolivia report

## REASONS FOR IMPLEMENTATION GAPS

Table 2 provides a snapshot of 14 factors that help to explain the deficiencies that are occurring in the implementation of VAWG legislation, and the countries in which those factors are contributing to the gaps, according to the analysis carried out by the in-country research teams. The five most commonly cited reasons will be discussed further.

**Table 2: Reasons for implementation gaps**

Reason	Country						
	Benin	Bolivia	Burkina Faso	Dominican Republic	India	Malawi	Nicaragua
Insufficient financial resources	✓	✓	✓	✓	✓	✓	✓
Insufficient awareness and training among implementing actors	✓	✓	✓	✓	✓	✓	✓
Lack of coordination or role clarity among implementing actors	✓			✓	✓	✓	✓
Harmful attitudes, social norms, and cultural practices	✓	✓	✓	✓	✓	✓	✓
Low political will	✓			✓	✓	✓	
Staffing and workload issues among implementing actors	✓	✓				✓	
Content or complexity of the law (or related legal instruments)	✓	✓					✓
Insufficient public awareness of the law	✓				✓		✓
Insufficient monitoring and evaluation of implementation				✓	✓		✓

Poor designation/gazetting of implementing actors					✓	✓	
Infrastructural deficiencies			✓			✓	
Insufficient focus on prevention/root causes			✓	✓			
Corruption	✓		✓				
Absence of required regulations or policies		✓					

## 1. Financial resources

All seven countries in the project have experienced shortages in the financial resources required to implement their VAWG laws. Several interview respondents – representing government ministries, law enforcement, and CSOs – lamented that they simply do not have the resources to carry out their obligations.

It is difficult to discern what has been budgeted – let alone spent – on implementation of VAWG laws, because in most countries, there was either no financial commitment from the government to accompany the legislation in question, funds to be spent on VAWG were subsumed within other law enforcement or social services budgets, or funding allocations had not been fulfilled.

- In Malawi, despite having specific mandates under the PDVA, state actors interviewed for the research had not received any specific funding from the government for implementing the Act. To fund VSUs, the police rely on the community policing budget line, but little goes towards the VSUs – from 30,000 to 100,000 Kwacha (USD 41 to 138) per month – as the priority is placed on other crime related issues. Community social welfare offices receive 100,000 to 200,000 Kwacha (USD 138 to 176) per month, for all office functions.
- In Benin, the government ministry (MFASSNHPTA) in which the key institutional implementing actors are located receives only 1 percent of the whole national budget:

*How to lead a national plan to fight VAWG when the budget is the smallest of all ministries, and it has to support [issues of] the family, social action, national solidarity, people with disabilities, and senior citizens?*

Benin report

*“You have victims that come with nothing, they don’t have any money. They have nothing at all and we are supposed to give them First Aid, and we’re limited, we don’t have the means for that.”*

A service provider, Benin

- In India, when the PWDVA was passed, there was no commitment from the central government to allocate funds to the state level for the implementation of the Act. Civil society continuously lobbied the central government from December 2012 to March 2013, and submitted a detailed implementation plan (Centrally Sponsored Scheme) to the National Commission for Women (NCW),<sup>42</sup> including a demand for Rs. 1,158 crores annually for PWDVA implementation.<sup>43</sup> As a result, the central government made budgetary commitments to the Ministry of Women and Child Development for the next three fiscal years (the highest was Rs. 67.5 crores in 2013–14). However, the Ministry did not use any of the funds allocated in 2013–14 or 2014–15 (despite requests for information, it is unclear whether the funds were actually transferred from the central government), and after a change of national government in 2015, there was absolutely no allocation for PWDVA implementation in 2015–16 in the Ministry’s budget statement.

## International funding

In the absence of sufficient government funding, nearly all of the seven countries have benefited from funding from international NGOs, government aid organizations, and UN agencies to support the implementation of VAWG laws.

- In Burkina Faso, as outlined above, a joint UNICEF-UNFPA program on FGM/C has been running for over eight years.
- The Benin country report made several mentions of international support that has enabled the training of implementing actors, coalition-building among WROs and CSOs, school-based prevention programs, and service provision. For instance, Project Empower II – funded by USAID – aims to strengthen the capacity of national and local service organizations to provide emergency assistance to those who experience VAWG.
- In Malawi, some police units receive funding from UNICEF and the EU for the provision of shelters, and social welfare offices have benefited from the Gender Equality and Women's Empowerment program (a joint UNFPA-EU initiative), totalling USD 600,000 per year, which ended in 2016.

Although this funding is making initiatives possible that otherwise would not be, questions arose regarding the sustainability of this support, and low levels of coordination among an increasingly crowded field of actors, an issue that is addressed below.

## 2. Awareness and skills

To be able to fulfill their responsibilities under the law, institutional actors need to know: the content of legislation or related policies, what their specific responsibilities are and how to carry them out, what the responsibilities of other actors are, and how to handle referrals and other types of relationships with those other actors. These levels of awareness and skills – and the training that is required – are insufficient in all of the countries in this research project.

*"I sometimes have to re-read the law to a judicial police officer. We have judges that also don't know the content of the law. So, the first difficulty is the lack of awareness at the level of actors that have to apply this law."*

A service provider, Benin

Research in most countries found evidence of at least some training of key implementing actors, in some instances with the involvement of WROs. However, training must be continuously conducted and in many cases repeated, as high levels of staff turnover are common, as a result of short-term, project-funded contracts, low levels of pay, and the low levels of prestige attributed to working on VAWG issues, particularly by law enforcement actors.

*The training of intervention personnel is not continuous or sustained. Nor is there recognition of VAW in law or medical schools. This weakens staff [who are] exhausted and little prepared in general, which re-victimizes users of the system.*

Dominican Republic report

In relation to the manner in which officials carry out their required responsibilities, there is a significant concern about the inappropriate treatment received by women who have experienced violence. This issue is addressed in more detail in the discussion of attitudes and norms below (point 4), but training is a key component of proper treatment of survivors. Actors that interact directly with survivors have often not been properly educated about VAWG, what survivors need, and the dangers of victim-blaming and re-victimization.

*The training of [specialized] judges on themes of gender and violence is very weak ... they show a lot of ignorance about the nature and characteristics of the issue of violence against women.*

Bolivia report

### 3. Coordination and role clarity

Addressing and preventing VAWG through the provisions laid out in the eight pieces of legislation examined in this study inevitably involves a range of actors whose functions inter-relate to some extent. For implementation to happen effectively, there must be a system in place to coordinate how these actors interact, a designated actor to lead that coordination, willingness and knowledge among the actors themselves, and clarity about roles. Although some coordination efforts have been made in all the countries, there remain serious deficiencies.

In India, for instance, there is insufficient cooperation among actors involved in court orders:

*At many places, cases of domestic violence are still filed at a police station without police directing the woman to a protection officer, protection officers are often not informed about the court orders on the Domestic Incident Reports, and service providers do not coordinate with protection officers or the judiciary ... [T]here are no clear directives or effective guidelines for coordination, which hampers a synchronized response to provide relief.*

India report

Research in Benin highlighted relatively good efforts at coalition building and development of standard operating procedures – thanks in large part to international funding – but also the challenge presented when individual organizations or initiatives do not cooperate or share information sufficiently with each other. One NGO respondent shared this comment:

*“My assessment, and it’s with a lot of resentment, is that the NGOs are not open [to collaboration]. It’s as if each one wants to guard their domain like their own private turf. There is no communication, there is no synergy among all the actions, and in the end the fight [against VAWG] lacks effectiveness on the ground.”*

CSO representative, Benin

Another important factor to ensure good coordination and collaboration is the involvement of the appropriate actors at the relevant stages of the process. The research in Nicaragua encountered weaknesses in this regard. Many CSOs – especially WROs – feel that they have not been consulted or sufficiently involved in coordination of the implementation of the VAW legislation, despite the fact that they have considerable expertise and experience to offer that would help to improve service delivery in particular.

In Bolivia, meanwhile, role clarity emerged as a problem, especially in relation to the law on political violence against women:

*One weakness of the text of this law is in the lack of clarity about which department should receive complaints from the victims ... It says in Article 14 that the complaint should be brought “before appropriate authorities or jurisdictions, as applicable.”... It is not clear which department or unit should process complaints.*

Bolivia report

## 4. Attitudes, norms, and cultural practices

Some of the richest information that emerged from this research project highlights the individual attitudes, social norms, and cultural practices that contravene the spirit and text of anti-VAWG legislation and therefore hamper implementation.

Social norms are shared, group-based beliefs about how people do and should behave, and attitudes are individual evaluations or judgements of something (Alexander-Scott et al., 2016). Cultural practices, meanwhile, are rituals or other behaviors that are strongly rooted in tradition, religion, and folkways. Norms powerfully shape attitudes and practices because individuals who deviate from group expectations are subject to shaming, sanctions, or disapproval by others who are important to them.

Depending on perspective, these norms, attitudes, and practices can be negative or positive. From a feminist and women's rights viewpoint, negative ones are those that condone, reward, or promote VAWG and gender inequality, and encourage women and girls to suffer in silence after experiencing violence. Positive ones, by contrast, support gender equality and the elimination of VAWG. The research revealed that negative norms, attitudes, and practices are affecting the implementation of laws through influencing the behaviors of both those who are supposed to implement the laws, and the general public to whom the laws apply.

In Malawi, the enforcement of occupation or tenancy orders is impacted by patrilineal marriage practices, where in some districts a bride goes to live in her husband's village. It becomes difficult in those circumstances to remove a man from his home or for a woman to live there alone after incidents of violence. If an order forces the husband from the home, his relatives may ask the wife to leave the village because they say the person who brought her is no longer there. This has left some women and children destitute in Malawi.

*"Occupation orders are impractical where [the] wife lives in [the] husband's village, like in patrilineal systems of marriage. Enforcement of such orders is difficult, if not impossible."*

VSU officer, Malawi

Furthermore, many officials who receive complaints of violence in Malawi do not intervene as the law requires, or they refer the case for alternative dispute resolution, because they believe domestic violence is a private, family problem.

*"We don't intervene in such issues because they are family issues and we may be blamed at the end of the day."*

A police officer, Malawi

A similar discourse was evident in India. State actors meant to enforce the law may openly dissuade women from continuing with legal proceedings because of the dishonor they are likely to face, or may emphasize maintaining the marriage through counselling instead.

In Bolivia, social norms and attitudes were discussed in relation to judges' rulings in particular. Judges are obligated to use "*la sana crítica del juzgador*" – or "healthy criticism/judgement"<sup>44</sup> – in which they balance a rigid application of the law with the cultural, psychological, and contextual details of each case. Instead, too many judges apply their own values and beliefs about 'the way things should be', resulting in decisions that "show a total lack of knowledge about the structural subordination in which women live, and the masculine power of which they are permanently victims" (Bolivia report).

*Judges, at the time of analyzing cases and pronouncing sentences, apply common sense, their own values and conceptions, which are part of the patriarchal and machista society that prevails in present-day Bolivia*

Bolivia report

In Benin, traditional, religious, and ancestral influences contribute to gender inequality, with ideas to the effect that women are the property of men, and are responsible for family unity. These norms strongly influence the actions of implementing actors. For instance, those working in law enforcement themselves may perpetrate violence against their partners, or they may bow to social pressure to handle cases of violence in ways that are unfavorable to survivors. In short, Law 2011-26 “does not take sociocultural realities into account” (Benin report), in part because traditional and religious leaders were not involved in developing the law.

*“People don’t believe it [but] you have lawyers who beat their wives ... you have police officers who beat their wives...”*

CSO representative, Benin

In Burkina Faso, meanwhile, social norms about the necessity and correctness of FGM/C continue to pose problems for the implementation of the provisions of the penal code.

Social norms concerning stigma, blame, and guilt attributed to those subjected to violence also pose a problem in several of the countries. A culture of silence makes women and girls hesitant to report experiences of violence or to follow cases through to their legal conclusions, a problem that is present wherever in the world VAWG occurs. The social norm to not report violence to authorities owes to fears about social stigma, family dishonor, reprisals, losing their children and/or the economic support of their husbands, among other consequences, as well as lack of trust in authorities and of confidence in the system. In Benin, if women report violence at all, many turn to religious or traditional leaders before or instead of turning to state institutions or CSOs.

Some country reports referred to this culture of silence as a reason for implementation gaps, with the idea being that the law cannot be implemented well if violence is not reported. Care must be taken, however, to not blame poor implementation of the law on the reluctance of women and girls to come forward. Their hesitance to report results from a combination of social norms that urge women to keep silent about violence, and implementation gaps themselves, which act as further deterrents. Unless the factors underlying women’s silence are effectively addressed, women’s access to legal recourse will remain restricted.

## 5. Political will

In Section 3, in response to critiques of the overuse or misuse of this term, political will was defined for the purposes of this research as the state’s prioritization of VAWG as a critical concern, and the allocation of sufficient budget and other resources to realize the objective of eliminating it (Abdul Aziz and Moussa, 2014: 12). Using evidence and examples that align with this definition, research in four of the project countries identified lack of political will as a contributing factor to implementation gaps.

In Benin, civil society interviewees observed that the state is quick to show an interest in tackling issues concerning VAWG because of the funding the country would stand to receive – and has received – from international partners, but that the government lacks a firm commitment to implement the law. As proof, interviewees cited the fact that the government ministry in which the key institutional implementing actors are located receives only 1 percent of the total national budget, and required reporting to the National Assembly has not yet begun. Furthermore, some politicians intervene in cases, with the effect that the law is not properly applied.

*“While we say that the male politicians have the strong will to fight [VAWG], when there’s a rape of a child in a village, it’s the congressman who starts phoning around so that the procedures aren’t followed.”*

Senior member of the civil service, Benin

Research in Malawi also points to lack of government funding as proof of low political will. For instance, a police officer in a cash-strapped police station said:

*“In my stay in the police, I have never seen that kind of prioritisation in GBV cases from the station using budgeted money ... generally, GBV assistance is through some donations. The only activity that has received some support from management of late is Crime Stopper<sup>45</sup> ... just because the Inspector General himself was involved and he prioritised it; otherwise, most of our activities are not supported by government funding.”*

A police officer, Malawi

In India, VAW, and the implementation of protective legislation more generally, is accorded low priority, a point on which the Member of Parliament who was interviewed agreed. To substantiate this, the researchers pointed to the underuse of funds allocated in the national budget, the Centrally Sponsored Scheme lying abandoned, low appointment of protection officers, neglect of coordination and monitoring needs, and low priority accorded to VAW cases in the court system. In terms of which specific institution should carry the blame, the conclusion of one anonymous respondent was that, “the buck stops at Ministry of Women and Child Development, which has not shown any political commitment to translate this Act into reality.”

Although political will is broader than strong leadership, political leadership and commitment at the highest levels of government proved important in Burkina Faso. The country report indicates that, among the reasons why FGM/C has been successfully addressed, strong political commitment figures highly. Although this support has fluctuated at times, it is traceable back to the 1960s, and particularly the mid-1980s onward. Individual political personalities matter, too; in Burkina Faso, there is some concern that FGM/C is now getting less attention with the recent departure, following the 2015 coup d'état, of First Lady Chantal Compaoré, who promoted the FGM/C provisions of the law.

## AN ISSUE OF GOVERNANCE

What came through quite clearly in the examination of the reasons for implementation gaps – despite the complexities – is that they cannot be reduced to merely technical or logistical issues. Although these play a part, this excerpt from the India report highlights the multiple deficiencies that contribute to the problems:

*Both protection officers and the judicial system are overburdened and not sensitised. [The] Legislature creates new laws, but the capacity and strength of the system to absorb it and roll out is severely limited, and therefore implementation suffers. Augmenting the system is the state's responsibility, but under this Act it is only optional, and not mandatory. And there is no penalty if the directives are not adhered to.*

India report

With reference to problems of sensitization, capacity, strength, responsibility, and accountability, this excerpt points toward the overall issue of *governance*. Although subject to myriad definitions, governance is more than political management, or the institutions of government. Broadly defined, it includes both the structures and processes through which accountability, the rule of law, equity, and other elements crucial to democracy are to be realized, *and* the culture and institutional environment – including norms, values, informal rules, and power relations – in which citizens, civil society, and the state interact (UNESCO, 2016).

In an analysis of democratic governance from a women's rights or gender perspective, legal reforms are critical components (IDRC, 2010), so the laws examined in this research – which

establish the fundamental rights of women and girls to live free of violence – are of utmost importance. However, they must be implemented and enforced. Of the key components of governance that affect implementation – structures and processes, versus environment and culture – this research highlights problems with both, but is particularly instructive about the latter. The institutionalized attitudes, norms, and low willingness to enforce the law may well reflect the state’s continued “official deference to cultural constructs of gender that legitimize discrimination against women” (IDRC, 2010: 10). Until this changes, the implementation of legislation – and gender-just governance more generally (Kazi, 2010) – will be difficult to improve.

# 7. KEY MESSAGES AND LESSONS

The proliferation of legislation on VAWG is a notable achievement for women's rights, but laws on paper must be implemented in practice in order to play an effective role in addressing and preventing VAWG. This report adds to the evidence that many states are falling far short of their legislative commitments.

It must be acknowledged that some countries do not yet even have legislation on VAWG, and that existing legislation in many countries must be strengthened. As such, enacting and reforming laws is justifiably the goal and focus of a great deal of women's rights work. Yet there must also be sustained attention and effort to improve the implementation of existing laws (WHO, 2014). Better implementation provides advocates in countries without laws with examples to learn from and aspire to, accelerates needed changes in negative social norms, increases public confidence in institutions, holds perpetrators to account, strengthens the imperative of the Due Diligence Principle, reinforces the message that VAWG is not acceptable, and provides vital support and redress to women and girls whose human rights have been violated.

## KEYS TO BETTER IMPLEMENTATION

There is no standard approach for improving implementation of VAWG laws because each context is unique and complex. However, from the deficiencies, successes, and explanations discussed above, seven key elements for improved implementation are discernible. The experiences of Burkina Faso and Dominican Republic are emphasized, with additional insights from Benin.

### 1. Institutional infrastructure

First, effective implementation of VAWG laws requires appropriate, comprehensive, and coordinated institutional infrastructure, through which women and girls who experience violence can access services and pathways to justice. These systems should be multi-level and multi-sectoral, and include CSOs and WROs. The Dominican Republic case is instructive in this regard, with, for instance, its comprehensive care units, shelter homes, specialized police offices, and behavioral center for male perpetrators. Importantly, these infrastructural improvements do not neglect the local level – e.g., a gender office was set up in every mayoral office – and had good coordination mechanisms, such as the Equality, Gender and Development offices established in every government ministry.

### 2. The “how” of implementation

Second, a range of efforts and initiatives are required to guide implementation, including national action plans, regulations, protocols, and training. The laws under examination here are mostly just decrees or commitments; they need to be accompanied by other documents and processes in order to be operationalized. The national action plans in Burkina Faso, and the multi-sector action plan, public policies, and standard operating procedures in Benin are good examples. Similarly, the Attorney-General in the Dominican Republic established protocols and regulations to ensure that women who experience violence are responded to properly. Moreover, education and training for implementing actors is of utmost importance, not only to instruct them how to carry out their responsibilities, but to combat problematic attitudes and

social norms related to VAWG. This capacity-building must be rights-based, gender-sensitive, obligatory, and continuous, and ideally carried out in partnership or consultation with WROs, as in the Dominican Republic.

### **3. Financing**

Third, implementation must be sufficiently and sustainably financed. Governments need to allocate identifiable, transparent, and ample budgets to fund implementation, and then to actually use those funds as promised, and not over-rely on international, often short-term funding. Unfortunately, none of the countries in the study provided a good example of adequate, responsible financing. In India, the government did eventually budget for PWDVA implementation, but not a single rupee was actually spent.

### **4. Political will**

Related to financing, a fourth key element is political will – including demonstrable political and institutional commitment that prioritizes the elimination of VAWG, supported by adequate resources. In Burkina Faso, political will has been shown in part by the individual politicians or governments that champion the elimination of FGM/C, as well as a specific institutional, state-led body – the SP/CNLPE – which is mandated to coordinate multi-actor initiatives and can be held accountable.

### **5. Monitoring and evaluation**

Fifth, related to accountability, implementation should be monitored and evaluated. Some countries have set up monitoring bodies or requirements, but these commitments have gone largely unfulfilled. In Benin, reporting to the National Assembly is required but has not yet begun. In the Dominican Republic, a monitoring body called CONAPLUVI was established, but has thus far done relatively little to fulfill its obligations. A better example is in Burkina Faso, where improvements to implementation of Law 043/96 followed from evaluations and multi-stakeholder meetings organized by the National Council.

### **6. Prevention**

Sixth, implementation efforts are strengthened by the inclusion of initiatives aimed at the prevention of VAWG, especially those that target individual attitudes and social norms that condone or contribute to violence.<sup>46</sup> Of the requirements of the Due Diligence Principle, prevention has not been prioritized in legislation or in implementation as much as protection, prosecution, and punishment. Some legislation explicitly addresses preventative social change – for instance, laws in both Nicaragua and Bolivia include the need to transform patriarchal relations of power, and Benin’s calls for changes to educational curricula. However, these aspects tend to be more weakly implemented than other parts of these laws.

In Burkina Faso, prevention strategies are not contained in the penal code provisions against FGM/C, but rather carried out as part of related initiatives and action plans. An interesting, if controversial, example of combining prevention with punitive measures is the “public hearing” approach in Burkina Faso, in which judges visit communities to both charge those who have committed FGM/C and raise awareness about the harms of the practice, in an effort to change social norms.

## 7. Women's rights organizations

Last, but certainly not least, CSOs – especially WROs – must be actively involved in the implementation of VAWG laws and related initiatives. Many WROs have expertise on VAWG, gender, and women's rights issues, know the terrain – especially at a grassroots level, where implementation ultimately needs to reach – and they often already provide services and support to women and girls. Their role in *influencing* implementation is discussed in the next section, but to participate in actually implementing VAWG laws, the research shows that they can and should play roles in service and information provision, accompaniment, education and training for implementing actors, and inter-actor coordination, among other activities. Their ability to do so depends on their own capacity, the strength of their networks, their relationship with the state, and, relatedly, their funding (which is a constant struggle for most WROs).

A quote from the Dominican Republic country report captures the importance of being organized and establishing good relations with the state:

*All the civil society representatives interviewed unanimously emphasized that a successful practice in the implementation of Law 24-97 [has been] the creation of inter-sectoral and inter-institutional networks that, with civil society, organize power dynamics at the local-level and with the state, and support the system of care. Everyone agrees that this has been possible because women's organizations and the feminist movement have established themselves as permanent interlocutors with the state, sometimes being human resources within the government sector itself who are sensitive to the topic of VAW.*

Dominican Republic report

## HOLDING THE STATE ACCOUNTABLE: INFLUENCING IMPLEMENTATION

Autonomous women's and feminist movements have proved crucial to pushing the state to take action to protect women's and girls' rights to live free from violence (Weldon and Htun, 2013). And indeed, in some of the country reports, the researchers were able to detail the roles that Oxfam and its partner organizations played in the passing of the legislation that this study has examined.

From there, what roles can and do women's and feminist organizations play in influencing the state to live up to its legislative commitments? What can we learn from the countries in the study about how to influence for better implementation?

Each country report presents recommendations for actors who are pushing the state to improve implementation, and examples from the Dominican Republic, India, and Malawi are particularly instructive. Some efforts were more successful than others, but together, they demonstrate the importance of well-organized, networked, and cooperative women's movements, that are willing and able to both influence and work in collaboration with the state, while also effectively raising public awareness of VAWG.

- In India, as alluded to above, civil society – especially WROs – relentlessly advocated for funding from the central government for implementation of the PWDVA. In March 2012, a group of WROs submitted a Centrally Sponsored Scheme to the government's National Commission for Women, including a proposed budget and detailed implementation plan.<sup>47</sup> Later that year, with Oxfam's support, the PWDVA Action and Advocacy Group was formed and began advocating for the implementation of the scheme.<sup>48</sup> This resulted, from 2013, in substantial improvements in budget allocations for PWDVA implementation, and the Ministry of Women and Child Development announced that the scheme would be piloted in 100

crime-prone districts. However, as mentioned previously, no funds were actually spent. The work of the PWDVA Action and Advocacy Group continues.

- Research in Malawi uncovered some specific strategies used by WROs to influence implementation. These include direct advocacy with Members of Parliament, lobbying of municipal governments to pass by-laws that facilitate implementation of the PDVA, and influencing within Court User Committees so that, for instance, poor clients do not have to pay court fees. Driving much of this influencing work in Malawi is the Women's Legal Resource Centre (WOLREC), a women's rights NGO. Among their influencing strategies, they organize meetings with parliamentary committees in order to highlight the need to take action on women's issues, and help politicians debate women's rights issues more effectively in parliamentary sessions. This strategy has contributed to improvements and/or enactments of legislation.
- In the Dominican Republic, a well-organized, collaborative, and creative women's movement has been key to influencing the implementation of Law 24-97. All respondents – including government representatives – acknowledged the good coordination within the movement and with the government, and credit the movement with successfully pushing a gender perspective in the political sphere. As mentioned above, representatives of the women's movements are permanent interlocutors with the state. They lobby and advocate, but are also sought-after experts for training and other activities that support implementation.

*“The NGOs, specifically the feminist ones, have had a very positive impact on the good practices related to VAW. These groups have formed an unbiased opinion within the population, in order to call the attention of government and other institutions to the commitment [they have made] to respond to the support needs of victims, and to the importance of punishments and supports for perpetrators.”*

A representative from the Behavioural Intervention Centre for Men, Dominican Republic

Based on the experience of women's and feminist organizations in the Dominican Republic in influencing the implementation of Law 24-97, some important characteristics and abilities are discernible. These actors must: be well-integrated in both internal and multi-sectoral/stakeholder networks; demonstrate a constant willingness to collaborate among themselves and with government on implementation; have the ability to transfer knowledge and good practices both among themselves and to the government; and keep developing creative and novel ways of lobbying and awareness-raising.

In light of the need for coordination and information-sharing between governments and CSOs, a recommendation that emerges from the Dominican Republic research is that international NGOs, such as Oxfam, should encourage and support these types of collaboration in the projects they are involved in.

## 8. CONCLUSION

The enactment of laws that aim to address and eliminate violence against women and girls should be commended and celebrated. These legal reforms – the vast majority of which were made in the last 25 years – reflect improvements to international human rights law, better acknowledgement of how VAWG impedes development, and the continuous struggle of women’s and feminist movements worldwide to impel states to take action. However, the spirit and promise of these laws have not been sufficiently fulfilled because many states have not risen to the challenge – and obligation – of implementation.

This research – which aligns with what Oxfam staff and partners have seen firsthand in their everyday work on VAWG – will contribute to generating enhanced understanding about which implementation gaps exist, why they are occurring and among which actors, what is needed to improve implementation, and how influencing efforts could be changed or improved in order to encourage states to live up their commitments. Informed by a “positive deviance” and comparative approach, and replete with comprehensive case studies and examples not previously available, the knowledge generated by this project will undoubtedly be useful to Oxfam and its partners for their influencing work.

It is also hoped that policymakers, other duty-bearers, and influential leaders – both in the seven countries and beyond – will meaningfully reflect and act on the evidence, key messages, and lessons shared here in order to more effectively fulfill their obligations. Their jobs are no doubt difficult ones, but no matter the circumstances, there are steps that every institutional actor can take – ideally in collaboration with others, especially WROs – to act in response to the content of this report.

Both the results and limitations of this study reveal opportunities for future research. For instance, questions about gender-responsive budgeting and governance could be explored further, as could the ways in which other elements of the legal framework – such as family law – influence the implementation of VAWG laws. Reflecting on the limitations of a relatively small study, similar research should be carried out in other countries to build the evidence base, and could examine how religious and other cultural leaders – who were under-represented in this project – support or hinder implementation of VAWG laws.

In terms of Oxfam’s work, this research reinforces the importance of the four main approaches that frame efforts to eliminate VAWG/GBV: strengthen WROs, provide services to survivors, change laws and institutions, and transform negative attitudes, norms, and behaviors. In particular, the research highlights the links between the social and the political: while laws can contribute to changing hearts and minds, existing norms and attitudes strongly influence the implementation of legislation. Encouraging connections are being made between this research and Oxfam’s new multi-country campaign – “Enough!”<sup>49</sup> – aimed at challenging and changing social norms that perpetuate VAWG, which is being implemented in some of the seven countries that participated in this research. This research also supports Oxfam’s conviction about strengthening CSOs, particularly WROs; they need to have the skills, capacity, and funding to not only play their part in implementing VAWG laws, but also to hold governments to account.

International human rights agreements and legislation in at least 127 countries enshrine the right of every woman and girl to live free from violence, as well as the obligation of states to protect this right. Laws alone will not eliminate VAWG, but they are a critical piece of the puzzle, and commit governments to action. This report adds to the evidence that duty-bearers are not doing enough to fulfill their commitments, but also contributes to the knowledge base about what needs to be done – and has worked – in order to strengthen the impact of laws on the elimination of violence against women and girls.

# APPENDIX A: LEGISLATION

## Benin

Loi N° 2011-26 du 09 janvier 2012 portant prévention et répressions des violences faites aux femmes

<http://www.bj.undp.org/content/dam/benin/docs/emancipationdesfemes/violences-faites-aux-femmes.pdf>

## Bolivia

Ley integral para garantizar a las mujeres una vida libre de violencia (Ley 348)

[http://oig.cepal.org/sites/default/files/2013\\_boI\\_ley348.pdf](http://oig.cepal.org/sites/default/files/2013_boI_ley348.pdf)

Ley contra el acoso y violencia política hacia las mujeres (Ley 243)

<http://www.comunicacion.gob.bo/sites/default/files/docs/Ley%20N%C2%BA243%20Contra%20el%20Acoso%20y%20Violencia%20Politica%20hacia%20las%20Mujeres.pdf>

## Burkina Faso

La Loi N° 043/96/ADP du 13 Novembre 1996 portant Code Pénal

[https://www.unodc.org/tldb/pdf/Burkina\\_Faso\\_Penal\\_Code\\_Fr.pdf](https://www.unodc.org/tldb/pdf/Burkina_Faso_Penal_Code_Fr.pdf)

## Dominican Republic

Ley No. 24-97 que Introduce Modificaciones al Código Penal, al Código de Procedimiento Criminal y al Código para la Protección de Niños, Niñas y Adolescentes

[http://www.msp.gob.do/oai/Documentos/Leyes/LEY\\_24-1997\\_ModificacionesCodigoPenalCrimi\\_20130125.pdf](http://www.msp.gob.do/oai/Documentos/Leyes/LEY_24-1997_ModificacionesCodigoPenalCrimi_20130125.pdf)

## India

Protection of Women from Domestic Violence Act

[http://www.lawyerscollective.org/files/protection\\_of\\_women\\_from\\_domestic\\_violence\\_act\\_2005.pdf](http://www.lawyerscollective.org/files/protection_of_women_from_domestic_violence_act_2005.pdf)

## Malawi

Prevention of Domestic Violence Act

[http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Malawi/malawi\\_domesticviolence\\_2007\\_en.pdf](http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Malawi/malawi_domesticviolence_2007_en.pdf)

## Nicaragua

Ley Integral contra la Violencia contra las Mujeres y las Reformas a la Ley 641 del Código Penal, con sus Reformas Incorporadas

<http://faolex.fao.org/docs/pdf/nic138659.pdf>

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# NOTES

- 1 The term GBV includes VAWG, but also violence against boys, men, and gender non-conforming individuals when it is perpetrated in order to defend or uphold gender roles and norms. Oxfam recognizes that the majority of GBV is perpetrated against women and girls – hence a priority is placed on the acronym VAWG – but the more inclusive term has been used as well. For references in this report to Oxfam’s work, the acronym VAWG/GBV is used.
- 2 The acronyms VAWG and VAW are used with care in this report. In general, the term VAWG is preferred, in recognition of violence against girls and women across the lifespan. However, in this report, the inclusion or deletion of the “G” corresponds with which types of violence are being referred to in a given section, context, law, or quote.
- 3 VAWG is particularly prone to under-reporting and insufficient data collection (World Health Organization, 2014), leading many to argue that prevalence rates are higher than official figures suggest.
- 4 The project was designed with an exclusive focus on national-level legislation, as opposed to regional or international agreements, or sub-national laws, in order to keep the project scope and methodology manageable and consistent across the participant countries.
- 5 In most countries, the research examined a piece of legislation specifically focused on VAWG, while in Burkina Faso, the study looked at penal code changes related to FGM/C specifically.
- 6 Positive deviance is an approach to social change that is based on the idea that for any given problem, a solution exists, somewhere. The idea is to look for outliers who succeed against the odds, based on their own efforts and innovations, and to learn from them (Pascale et al., 2010).
- 7 Country reports are available to Oxfam staff, and may be available to others on request from the relevant Oxfam country office. Contact [knowledgehub@oxfam.ca](mailto:knowledgehub@oxfam.ca) for more information.
- 8 Knowledge Hubs (KHs) are part of Oxfam’s strategy to be a stronger knowledge and learning organization in order to increase the resources and evidence base for its programs and influencing. KHs act as “network enablers” within the Oxfam confederation in a given thematic area, facilitating collaboration, knowledge sharing, and investments across a geographically diverse and dispersed network of colleagues and partners.
- 9 Lifetime prevalence of intimate partner violence (physical and/or sexual) or non-partner sexual violence or both among all women (15 years-old and older) in low- and middle-income countries.
- 10 See de Silva de Alwis and Klugman for a good overview of these. Notably, upon its establishment in 2010, UN-Women prioritized the prevention of and response to VAW (World Health Organization, 2014).
- 11 This was an important amendment, as the Convention on the Elimination of All Forms of Discrimination Against Women (1979) did not explicitly mention VAWG or gender-based violence in its original version.
- 12 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011), The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (1994) (Convention of Belem do Para), and The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003).
- 13 These include: General Recommendation No. 19 (1992) of the Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”) Committee, the United Nations General Assembly (1993) Declaration on the Elimination of Violence against Women, the Platform for Action of the Beijing World Conference on Women (1995), and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará, 1994).
- 14 “Legislation” can include specific Acts as well as provisions in other parts of the legal framework, such as criminal or penal codes.
- 15 For instance, as the time increases since a country has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), it is more likely to adopt full legal protections against domestic violence (Richards and Haglund, 2015).
- 16 It should be noted that this report does not assess the strength or comprehensiveness of the legislation examined in this research. For a good examination of what VAWG legislation should aim for and contain, see UN Women, 2012; Thomas et al., 2011; and Abdul Aziz and Moussa, 2014.
- 17 For example, this World Bank study found that among 133 countries, 87 percent had domestic or family violence legislation, but only 44 percent of countries reported these laws to be fully enforced (page 9).
- 18 Because implementation can be hard to measure, some countries in this research use effectiveness indicators – such as changes in the number of service users or of reported VAWG cases – as proxies to discuss the strength of implementation.

- 19 The full project methodology has been detailed separately from this report, for reference and learning purposes for Oxfam and its partners. Available upon request. Please email [knowledgehub@oxfam.ca](mailto:knowledgehub@oxfam.ca)
- 20 Available upon request. Please email [knowledgehub@oxfam.ca](mailto:knowledgehub@oxfam.ca).
- 21 Where country reports were in French or Spanish, all excerpts or quotes have been translated into English.
- 22 Criminal law deals with acts of intentional harm to individuals, which are considered harms to society at large, and normally these are prosecuted by the state. Civil law deals with disputes between private parties, or negligent acts that cause harm to others. These two categories of law also differ in burdens of proof, and in resulting punishments (custodial or non-custodial punishment aimed at deterrence, versus restitution or compensation for victims). Sources: [http://www.cscja-acjcs.ca/criminal\\_civil\\_law-en.asp?l=4](http://www.cscja-acjcs.ca/criminal_civil_law-en.asp?l=4); [http://www.diffen.com/difference/Civil\\_Law\\_vs\\_Criminal\\_Law](http://www.diffen.com/difference/Civil_Law_vs_Criminal_Law)
- 23 This law defines political harassment as an act of pressure, persecution, or threat perpetrated against women in political roles or against their families, with the aim of somehow interrupting their duties or their rights, or making them act against their will. Political violence has the same aims but consists of physical, psychological, or sexual aggression.
- 24 The HDI is intended to measure development status and progress according to expanding human choices. It is calculated based on the dimensions of: life expectancy at birth, mean years of schooling, expected years of schooling, and gross national income (GNI) per capita (UNDP 2015b). The GII measures three dimensions of gender inequality: reproductive health, political empowerment, and economic status. A low GII value indicates low levels of inequality between women and men, and vice versa (UNDP 2015c). See UNDP 2015c for how these dimensions are measured. For means of contrast, the lowest GII values in the world are in Western and Northern Europe, e.g., Switzerland (0.028), Germany (0.041), and Denmark (0.048) (UNDP 2015a).
- 25 Loi No. 2011-26 du 09 janvier 2012 portant prévention et répression des violences faites aux femmes.
- 26 Although the word “survivor” is generally preferred over “victim”, this wording is taken directly from the law.
- 27 This is a reduction from 62 percent in the 2001 census, a point which has been subject to much speculation. See for instance: <https://www.servindi.org/actualidad/91607>
- 28 Ley integral para garantizar a las mujeres una vida libre de violencia.
- 29 Ley contra el acoso y violencia política hacia las mujeres.
- 30 Typically only used in Spanish, this term – “critical path” – refers to the steps and obstacles that women who want to seek help for experiences of violence and to escape the cycle of abuse may face.
- 31 La Ley Integral Contra la Violencia hacia las Mujeres y de Reformas a la Ley No.641, "Código Penal",
- 32 This is the path that women may follow after experiencing violence. It can include shelter, healthcare, counselling, reporting to police, the legal and judicial process, etc.
- 33 Law No. 846, and Decrees Nos. 42-2014 and 43-2014.
- 34 FGM/C is defined as the "partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons" (UNICEF, 2013: 6–7). Of the four types of FGM/C, two are practiced in Burkina Faso: (1) Clitoridectomy – the removal of the clitoral cap with or without partial or total removal of the clitoris, and (2) Excision – clitoridectomy plus the removal of the small labia, with or without the removal of the large labia.
- 35 La Loi No 043/96/ADP du 13 Novembre 1996 portant Code Pénal au Burkina Faso.
- 36 Ministère de l'Action Sociale et de la Solidarité Nationale.
- 37 These statistics need to be interpreted with caution because they are based only on reports of young girls themselves or third persons. Levels of reporting remain low because of the repercussions outlined in the law.
- 38 Cultural violence is defined as any harmful or degrading practice toward women or girls that is justified by customs, traditions, or religions: [http://www.apprendre-plus.shost.ca/documents/lois/loi\\_061.pdf](http://www.apprendre-plus.shost.ca/documents/lois/loi_061.pdf)
- 39 “Ley No. 24-97 que Introduce Modificaciones al Código Penal, al Código de Procedimiento Criminal y al Código para la Protección de Niños, Niñas y Adolescentes”. Given the legal changes produced by Law 24-97, procedural regulations and others tied to guarantees of rights were established in subsequent enactments of the Code of Criminal Proceedings and the law that establishes the system of protection for boys, girls, and adolescents.
- 40 This distinction between feminist and women’s movements is in keeping with the language of the country report.
- 41 This term refers to the steps and obstacles that women may face who want to seek help for experiences of violence and to escape the cycle of abuse.
- 42 NCW is a statutory body set up by the government of India in 1992, with the mandate of protecting and promoting the interests of women. It serves to advise government on policy matters relating to women and also facilitates grievance redressal.

- 43 A crore is a unit in the Indian numbering system equal to ten million.
- 44 This is open to alternative translations or interpretations, such as “common sense”.
- 45 This is an initiative by the police Inspector General to engage the business community to mobilize resources in order to help stop crime in their locations jointly with the police. The crimes it focuses on are robbery, theft of motor vehicles, and break-ins.
- 46 Arguments have been made that an increased global focus on prevention has problematically resulted in less funding and attention to still much-needed response services for women and girls who experience violence. See, for instance, Vetten (2016).
- 47 The proposal can be found here: <http://pwdvact.in/images/download/CSS-Information-Proposal-For-CSS-Scheme.pdf>
- 48 For more information, see <http://pwdvact.in/>
- 49 For more information, see <http://www.sayenoughtoviolence.org/>

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