Due Diligence & State Responsibility to Eliminate Violence against Women

Region: Australia, Canada, New Zealand & United States of America

Due Diligence Project
ACKNOWLEDGEMENTS

The Due Diligence Project proudly acknowledges with gratitude the contributions of the following whose generous support made the project implementation possible –

Governments, Inter-governmental Organizations and Funding Agencies

The Government of the Netherlands;
The Government of Australia;
The Government of Denmark;
The Government of Germany;
UN Women;
The Office of the High Commissioner for Human Rights, United Nations;
Global Fund for Women;
The Government of France; and
The Government of Malaysia.

Collaborating Individuals, Institutions and Civil Society Organisations

Northeastern University School of Law and in particular, Martha Davis and Dean Emily Spieler, students who worked on the Due Diligence Project and their supervisors; Women’s Development Research Centre (KANITA), Universiti Sains Malaysia; Centre for Human Rights, University of Pretoria; Institute for the Study of Human Rights, Columbia University, New York; Centre for Comparative and Public Law, University of Hong Kong;

KAFA (Enough Violence and Exploitation), Beirut; United Nations Latin American Institute for Crime Prevention (ILANUD); Sahamara Casa Centre; Bulgarian Gender Research Foundation (BGPR); Sofia; Women against Violence Europe (WAVE); Centre for Egyptian Women Legal Assistance (CEWLA), Cairo; Maslahah Human Rights, Lagos.

Report-writing advisors – Charlotte Bunch, Shanthi Diariam and Roxanna Carillo;

Regional consultants – Karen Stoffman, University of Pretoria and Brenda K. Kombo, (Sub-Saharan Africa); Norada Enduit, Universiti Sains Malaysia and Puja Kapai, University of Hong Kong (Asia-Pacific); Colette de Troy, European Women’s Lobby and Genoveva Spasssova Tisheva, Bulgarian Gender Research Foundation (Europe); Atif Jabal, Jordanian Women’s Union (MEHA); Ahna Victoria Delgado, Independent researcher, Mexico and Lebrechths Nana Oba-Hesse Baynes, Detachments of Gender Affairs, Nigeria and Barbuda (JAC); and Julie Goldscheid, City University of New York and Debra Liebowitz, Drew University, USA (CANZUS).

Advisory Committee members – Charlotte Bunch, Kamala Chandrasekaran, Hiary Charlesworth, Cees Plinterman, Pramila Patten.

International Human Rights Initiative (IHR) Board Members – Anne Shaila George, Margaret Trettler-Sales, Nancy Salamoun.

Experts – Yasmine Bergas (USA), Michelle Haynes (USA), Madhu Mehra (India), Sally Engle Merry (USA), Alda Facio Montejo (Costa Rica), Haniya Abu-Chaouch (Palestine), Komo Hasadte (Ken/Canada), Sadi Kassim (Bangladesh); Vindosi Haran (India/Canada), Meita Kassal (Uganda); Geeta Ramaseshan (India); Zoya Jureidini Rouhana (Lebanon), Kathleen Stautz (USA), Vivienne Wee (Singapore).
Due Diligence and State Responsibility to Eliminate Violence against Women

Regional Report: Australia, Canada, New Zealand & U.S.A.

Prepared by
Regional Consultants
Julie Goldscheid,
CUNY Law School, NY &
Debra Liebowitz,
Drew University, NJ

Due Diligence Project
Co-Directors
Zairana Abdul Aziz &
Janine Moussa

More information about the Due Diligence Project and an electronic copy of this report available at –
http://www.duediligenceproject.org
## I. Introduction

- Evolution of the Due Diligence Principle ............................................... 2
- Project Methodology ................................................................................. 4

## II. Situational Context (Regional) ......................................................... 4

- Socio-Political-Legal Context .................................................................. 6

## III. Research Findings ........................................................................... 22

1. Prevention ............................................................................................... 22
2. Protection ............................................................................................... 26
3. Prosecution and Investigation ................................................................. 31
4. Punishment ............................................................................................. 37
5. Provision of Redress and Reparation ....................................................... 39

Annex I: Due Diligence Framework ............................................................... 41
Annex II: Due Diligence Project Questionnaire ........................................... 47
Issues of gender violence are increasingly discussed in high-level international policy discussions and human rights reports, and there is evidence that parallel policy debates and reforms are happening in many countries.\(^1\) Putting international human rights law to effective use, however, requires a clear understanding of the complexity of State obligation as well as frameworks for evaluating State performance. Although international law unambiguously obligates State actors to refrain from committing rights violations, the progressive realization of rights necessitates a broader understanding of the concept; one that includes measures to prevent human rights abuses before they happen, to effectively prosecute and punish them once they have occurred, and to ensure the provision of effective redress for individuals and groups that experience rights violations.\(^2\) The principle of “due diligence” has developed to capture this amplified notion of State obligation. The ‘due diligence’ principle is now generally accepted to include an obligation of the State to prevent, protect against, prosecute, punish and provide redress for acts of violence against women (“5P’s”).\(^3\) It implicates the State as bearing responsibility for preventing and responding to rights violations committed by individuals and other non-state actors, and makes clear that effectively addressing gender violence necessitates the engagement of off-uninvolved state entities.\(^4\)

The ‘due diligence’ standard, however, remains vague and under-defined. This report, and the larger project\(^5\) from which it emanates, fill this gap by drawing on the experiences of anti-violence advocates to give meaning to the due diligence standard and to explain what State compliance with this obligation may entail. The Due Diligence Project divides country-specific data analysis into six regions;\(^6\) this report examines Australia, New Zealand, Canada and the United States of America (hereafter the ‘CANZUS region’).\(^7\)

This report is divided into five sections:

- **Section I** introduces the principle of ‘due diligence’ and its evolution to the point where today it is generally accepted that a State has an obligation to prevent, protect, prosecute, punish and provide redress for acts of violence against women, whether committed by State or non-state actors.
- **Section II** explains the methodology of the report and situates it in the context of the broader Due Diligence Project.

---

2. For an explanation of these human rights principles, see JOHN RUGGIE, Protect, respect and remedy: a framework for business and human rights; 3 INNOVATIONS: TECHNOLOGY, GOVERNANCE, GLOBALIZATION (2008) and R. HAMMONDS & G. OOMS, World Bank policies and the obligation of its members to respect, protect and fulfill the right to health, HEALTH AND HUMAN RIGHTS (2004).
5. The Due Diligence Project has two co-Directors responsible for the overall conceptualization and development and implementation of the Project, and an Advisory Committee made up of international experts sitting in their individual capacities providing macro level strategic direction and guidance. The Project is supported by a team of experts and consultants, selected for their regional and/or thematic expertise, who are contribute at varying levels or are responsible for various parts of the project such as verifying the methodology, identifying and reaching out to local participants and stakeholders, providing local and country expertise, analysing the data and drafting of the regional reports. For more information about the project see, http://www.northeastern.edu/law/academics/institutes/phrg e/programs/due-diligence.html.
6. The overall Due Diligence Project divides countries into the following six regions: Africa; Asia-Pacific; Europe; Latin America and the Caribbean; Middle East and North Africa; and the CANZUS region (Canada, the United States of America, Australia and New Zealand).
7. Unlike the other country groupings used in the Due Diligence Project, the four countries discussed in this report do not, even loosely, constitute a geographic region. Instead, this grouping is based on the broad similarities that these countries share. They are all functioning democracies, have high per capita GDP, are English language dominant, have significant indigenous/native populations, are white European dominant, have significant numbers of racial and ethnic minorities as well as immigrants, and have well-developed civil societies that address gender violence. This geographically disparate grouping is not specific to the Due Diligence Project. In the United Nations, for instance, these countries often negotiate as part of the same bloc (as either the “Western European and Other Group”, which officially includes 27 countries but functionally includes 28 since the USA acts as a member, or as part of “JCANZUS”, a 14 or 15 country sub-set of the WEOG group).
Section III summarizes key aspects of the socio-political-legal context in Australia, New Zealand, Canada and the United States of America, and the nature of gender violence in the region. It highlights the policy and legal frameworks with regard gender violence, and the manner in and extent to which the due diligence principle has unfolded within the region.

Section IV summarizes survey responses and other commentary from NGO’s. It enumerates trends identified by NGO representatives; identifies good practices and describes challenges in fulfilling the due diligence obligation. This section is organized according to five areas in which the due diligence principle is applicable, namely, prevention, protection, prosecution, punishment, and provision of redress. In this report, these five areas are also referred to as the “5P’s”.

1. Evolution of the Due Diligence Principle

The recognition in the international policy arena of a State obligation to address violence against women developed slowly. The first references to the issue were framed rather opaquely around the “need for the family to ensure dignity, equality and security of each of its members” and not as about violence, per se. It was not until the United Nations’ Committee on the Elimination of Discrimination against Women (hereafter the ‘CEDAW Committee’) adopted its General Recommendation 19 in 1992 and the U.N. General Assembly adopted the 1993 Declaration on the Elimination of Violence against Women (hereafter the ‘Declaration’) that violence against women was clearly and comprehensively situated within the human rights frame. These early steps, and most of the subsequent ones, were taken because feminist, anti-violence, and human rights advocates and organizations explained and demanded that “women’s rights are human rights”. They made clear that violence against women was not just a private act, but that States were responsible if they had not acted with diligence to protect individuals from having their rights violated.

The 1988 Velázquez Rodríguez case of the Inter-American Court of Human Rights is the landmark case that clearly set out the due diligence principle and established the principle of State responsibility for violations of human rights caused by non-State agents. The Court concluded that:

“An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person because the person responsible has not been identified) can lead to international responsibility of the State, not because of an act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention.”

Several international resolutions, outcome documents and mandate holders have furthered the understanding of this principle. General Recommendation no. 19 (1992) of the Committee on the Elimination of All Forms of Discrimination Against Women (“CEDAW Committee”) and the United Nations General Assembly 1993 Declaration on the Elimination of Violence against Women underscore that States are responsible for private acts of violence against women if they fail to act with due diligence to prevent, protect against, investigate, punish and redress such acts of violence. This point was later reiterated in the Platform for Action of the Beijing World Conference on Women as well as in a number of regional and international documents and court decisions.

---

16 United Nations, Report of the Fourth World Conference on Women, Beijing, September 4 to 15, 1995, Beijing Declaration and Platform for Action approved at the 16th plenary session held on September 15, 1995, A/CONF.177/20/Rev.1, para. 1245b. See also 1994 Inter-American Convention on the Prevention, Punishment and
the mandate of the Special Rapporteur on violence against women, its causes and consequences, emphasized “the duty of Governments to refrain from engaging in violence against women and to exercise due diligence to prevent, investigate and, in accordance with national legislation, to punish acts of violence against women and to take appropriate and effective action concerning acts of violence against women, whether those acts are perpetrated by the State or by private persons, and to provide access to just and effective remedies and specialized assistance to victims”. The various Special Rapporteurs on Violence against Women have also focused on this issue in a number of their thematic reports.18

This principle of due diligence has been further fleshed out in a series of recent international and regional opinions and cases. The CEDAW Committee for example has addressed a State’s due diligence obligation in its communications on violence against women under the Optional Protocol to CEDAW.19 In A.T. v Hungary20 the CEDAW Committee found the State responsible for failing to take all appropriate measures to prevent and protect A.T. from repeated attacks by her common law husband, L.F., despite her several attempts to seek protection from the authorities. This included the failure to enact relevant legislation and to provide adequate shelters. In Fatma Yıldırım v Austria,21 Fatma Yıldırım was fatally stabbed by her estranged husband, Irfan Yıldırım. Despite her repeated requests to the police that he be detained, he was not. The CEDAW Committee determined that the police knew or should have known of the extreme danger faced by Fatma Yıldırım, and its failure to arrest and detain Irfan Yıldırım constituted a failure of its due diligence obligation to protect her.

The Inter-American Commission on Human Rights, in the case of Maria Da Penha v. Brazil concluded that the State’s failure to prosecute or punish the repeated violence faced by Maria da Penha, perpetrated by her then husband, after over 15 years of the case pending before criminal court, amounted to a violation of a State’s obligation not only to prosecute and convict but also to prevent these acts of violence.22 In its recent Campo Algodonero case, the Inter-American Commission found Mexico in violation of the American Convention on Human Rights and the Convention of Belem do Para for its failure to adequately prevent, prosecute and punish the murders of three young women.23 While acknowledging that the duty to prevent is one of “means and not results”,24 the Court found that given that the State knew of the existence of a pattern of violence that has killed hundreds of women and girls, the State “did not act with the required due diligence to prevent the death and abuse suffered by the victims adequately”,25 “nor did it effectively investigate the incidents of violence”.26 In its latest related decision, the Inter-American Commission on Human Rights (IACHR) in the case of Jessica Lenahan (Gonzales) v. United States, held that the United States violated its obligations under the American Declaration of the Rights and Duties of Man, based on a claim that local law enforcement failed meaningfully to respond to a victim’s/survivor’s call for assistance when her abusive partner abducted her three children, who then were killed in a shootout at the police precinct later that evening.27 The IACHR found that the United States violated, among other things, its obligations not to discriminate and to provide equal protection of the law.28 It made numerous recommendations for individual and systemic relief that would promote law enforcement accountability and equality.29

The European Court of Human Rights, in the case of Osman v U.K.,30 held that the Convention implied, under certain circumstances, a positive obligation on the authorities to take preventative measures where there is a ‘real and immediate’ risk. Later, in the case

---

19 Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women, G.A. Res. 4, U.N. GAOR, 54th Sess., Supp. No. 49, U.N. Doc. A/RES/54/4 (1999), available at http://www2.ohchr.org/english/law/cedaw-one.htm [hereinafter Optional Protocol to CEDAW] [The Optional Protocol to the CEDAW Convention is a treaty that State parties to the CEDAW Convention can ratify. It does not create new substantive rights but rather two procedures that allow women who have been denied justice at the national level to bring for review claims of rights violations to the United Nations’ CEDAW Committee. The two mechanisms it creates are: 1) a Communications Procedure for the review of individual complaints; 2) an Inquiry Procedure that allows the CEDAW Committee to instigate an inquiry into grave or systematic violations of women’s rights.]
21 Communication No.: 6/2005, Fatma Yıldırım v. Austria [Views adopted by the CEDAW Committee on 6 August.

---

24 Ibid, para. 279.
26 Ibid, para 389.
28 Id. at para. 199.
29 Id. at 200.1.
of Opuz v Turkey\textsuperscript{31}, the court also found that the authorities ‘knew or ought to have known’ the ‘real and immediate risk to the life of an identified individual’, and were therefore obligated to take preventive measures that could have forestalled the eventual stabbing and death of the applicant’s mother by the applicant’s then husband. The due diligence principle has received attention from the Council of Europe, particularly in its latest Convention on Preventing and Combating Violence against Women and Domestic Violence 2011 (Article 5 which compels State parties to take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence.\textsuperscript{32}

The European Convention and the latest Inter-American Commission decision of Jessica Lenahan (Gonzalez) delivered in August 2011, in particular have given increased international legal weight to the due diligence concept. The Due Diligence Project is working to further develop and underline the real-world importance of the concept.

2. Project Methodology

\textbf{Methodology}\

This report is located within the larger Due Diligence Project.\textsuperscript{33} The Due Diligence Project is a research-advocacy project aimed at collecting good practices and State actions in the formulation, implementation and enforcement of policies, laws, procedures and processes to address violence against women. The Project is particularly concerned with using the experiences of anti-violence advocates to give meaning to the due diligence standard and to explain what State compliance with this obligation entails. In so doing, we surface what advocates identify as promising or “best practices” and highlight those programs, policies and practices about which many concerns have been raised.

The Project has both global and regional components: (1) the global component consists of literature review, which focus on studying the development and evolution of the due diligence principle in international law and how it is being commonly applied today. It also looks at the context of violence against women, its historical roots of exclusion and invisibility in the human rights discourse, as well as its later recognition as a violation of human rights; and (2) the regional component seeks to provide primary data and regional specificities that cannot be captured at the global level. The overall Project divides countries into the following six regions: Africa; Asia-Pacific; Europe; Latin America and the Caribbean; Middle East and North Africa; and North America and Australia and New Zealand.

For this report, a host of primary and secondary sources have been used to research gender-based violence in Australia, New Zealand, Canada, and the USA; these include:

1) Global expert meetings: The Due Diligence Project has called two global expert meetings to date. The first of the meetings was held on 26-27 April 2011 in Boston, USA. The main goal of the meeting was to brainstorm and strategize on the meaning and content of the due diligence principle and in particular the duty to prevent, protect, prosecute and investigate, punish and provide reparations. Another goal of the meeting was to discuss and finalize the questionnaire, methodology and execution of the Due Diligence Project. The second meeting was an expert drafters meeting which took place in June 2012 in Sofia, Bulgaria. The goal of the meeting was to gather the drafters of the regional reports altogether to engage in a shared and intensive focused discussion about the proposed report, its structure and content including thematic issues and analysis of the raw data to be collated from the questionnaire and State input as well as presentation of the findings.

2) Questionnaire: A questionnaire, developed at the global expert group meeting in April 2011, was distributed to civil society organizations (CSO) working on violence against women. The questionnaire probes existing State measures and challenges encountered by civil society in their work to end violence against women (a copy of the questionnaire is included in Appendix A). The questionnaire was distributed to CSOs in 40 countries globally. A total of thirty-eight questionnaires were completed by organizations in the four countries considered in this report, including: ten from organizations in Australia; five from New Zealand; thirteen from Canada, and ten from the USA. These organizations include both advocacy and service organizations, and come from various geographic regions of the countries, and are embedded in racially and ethnically diverse communities.\textsuperscript{34}

\textsuperscript{31} ECHR, Case of Opuz v. Turkey, Judgment of 9 June 2009. 
\textsuperscript{33} Information about the project, Supra at 5.
\textsuperscript{34} The Due Diligence project at Northeastern University Law School drafted the survey, identified survey respondents and administered the survey. They contacted key local
Secondary source research: The report reflects research on each State’s compliance with their due diligence obligation. This includes review of the following documents: reports to relevant UN Treaty Bodies and UN Special Rapporteurs, especially shadow reports written by anti-violence advocates; research studies on gender-based violence; government generated reports and data; national legal cases that relate to state responsibility and gender-based violence; and reports issued by non-governmental organizations that address gender-based violence.

Consultations with nationally-based anti-violence experts: In order to corroborate the information derived from the questionnaire and secondary sources, follow-up conversations and consultations with nationally-based anti-violence experts were arranged. This included meetings with New Zealand-based activists in New York during July, 2012 session of the UN Committee on the Elimination of Violence against Women, as well as review and comment by individuals in each of the four covered countries of the draft report.

The Due Diligence Project looks at all forms of violence against women, including but not limited to intimate partner violence; rape and sexual assault; trafficking; sexual harassment; forced sterilization; forced or early marriage; harmful practices, such as female genital mutilation; and femicide/feminicide. These experiences of violence occur in a wide-range of settings, including within the family, in the community, during times of peace and in times of conflict and are committed by state and non-state actors alike. This report focuses on domestic violence and sexual assault, since most legal and policy responses in the four covered countries focus on those forms of gender violence.

Definitions

The broader Due Diligence Project’s definition of ‘violence against women’ is based on the definition contained in the 1993 UN Declaration on the Elimination of Violence against women:

“Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”

It considers violence against women to be any act of physical, sexual, psychological and economic acts of violence and notes that the acts referenced with the term violence against women can take many different forms and occur in many different settings.

The Due Diligence Project does not limit itself to analysis of the acts of violence themselves but rather explores their structural roots such as patriarchy, the relationship between social economic and cultural rights on violence against women as well as intersectionality between violence against women and how they relate to other issues (e.g. race, ethnicity, poverty, religion, sexual orientation). On this latter point the report attempts to take into account how being part of a particular group (e.g. such as migrant, indigenous, displaced, or stateless women) affects that woman’s likelihood of becoming a victim of violence to begin with and her ability to seek adequate relief after the fact.

The report uses the term ‘gender violence’ in most cases, because it best reflects the work of anti-violence advocates in the CANZUS region. However, the report makes a conscious choice to use the term ‘violence against women’ in cases where so doing is necessary to provide consistency with human rights documents and standards using that terminology. The use of ‘violence against women’ in no way suggests that the report excludes other forms of gender violence, including domestic or sexual violence committed against lesbian, gay, bisexual or transgendered individuals, or, in some cases, heterosexual men. In so doing, the report recognizes that gendered violence shapes the lives of many and that attention to its breadth is necessary for addressing the issue.

advocates in each country and asked them assist in identifying reputable CSOs that address violence against women. Each of the organizations identified was contacted via email and asked to fill out the survey. Follow-up emails were also sent.
CHAPTER II
SITUATIONAL CONTEXT

Legal status of women

All four countries formally recognize women’s right to equal treatment. For example, although the Australian Constitution does not explicitly include anti-discrimination and human rights guarantees, these protections are covered in Commonwealth, State, and Territory law. The federal Sex Discrimination Act 1984 (SDA) outlaws discrimination on the grounds of sex, pregnancy and marital status; prohibits sexual harassment; and prevents dismissal from work because of family responsibilities. Australia’s ratification of the CEDAW Convention was a primary impetus for passage of the SDA, but there continues to be concern that not all rights protected by the CEDAW Convention are covered in the SDA. 

Australian states and territories have passed their own anti-discrimination laws, which are enforced by the relevant equal opportunity agency.

In Canada, the Canadian Charter of Rights and Freedoms guarantees equal protection of the law without discrimination on a number of protected grounds including sex, and specifically guarantees equal rights to men and women. The Charter has been interpreted to guarantee substantive, rather than formal, equality, although courts grapple with the meaning of the substantive equality promise. Statutory provisions also prohibit sex discrimination in employment and public accommodations.

In the United States, Title VII of the Civil Rights Act of 1964 took the place of the 1944 Executive Order 9857 that had been in place since the Second World War. It made it illegal for employers to discriminate on the basis of race, color, religion, national origin, or sex. Title VII also extended the reach of the Civil Rights Act of 1960, which prohibited discrimination in public accommodations based on race, color, religion, or national origin. Title VII has been amended several times to include sex, age, and disability.

In the United Kingdom, the Sex Discrimination Act 1975 made sex discrimination unlawful and provided for the establishment of a body responsible for monitoring compliance. The Equal Opportunities Commission was the precursor to the current equality bodies in the UK.

In the European Union, anti-discrimination policies have been integrated into the existing legal framework. The Lisbon Treaty of 2009 made an explicit commitment to equality and diversity, and to human rights.

In the United Nations, the CEDAW Convention is the most important instrument related to gender equality. It is an international human rights treaty to protect and promote women’s rights.

CITED:
38 Id., para. 812.
39 Id., para. 12; The Australian Human Rights Commission has statutory responsibility for implementing the SDA. The Australian Human Rights Commission (an independent statutory authority established by the Australian Parliament) that meets the criteria for independent human rights institutions set out in the Paris Principles) is the institution that addresses human rights violations, though individuals can complain only of violations committed by the Commonwealth, and neither the Commission nor the Courts are empowered to provide a remedy. See How Are Human Rights Protected under Australian Law?, Austl. Human Rights Comm’n (Mar. 8, 2006).
41 Id. at para. 28.
47 Public Sector Equitable Compensation Act [2009, c. 2, s. 394].
and provides parental benefits to parents of a newborn or newly adopted child.\(^{48}\)

New Zealand has no codified written constitution; its governing law is comprised of a number of key Parliamentary Acts that delineate the formal state structures and relations.\(^{49}\) New Zealand’s law does not include any specific reference to the right of equality. Instead, it articulates the right to be free from discrimination.\(^{50}\) The principle of non-discrimination is enshrined in the New Zealand Bill of Rights Act 1990 (at Section 19) and in the Human Rights Act of 1993 (at Parts 1A and 2). The latter brings sexual orientation in as a ground for protection.\(^{51}\) However, as statutory provisions, these laws are not like constitutional guarantees. Instead, they can be amended or repealed by a simple majority of the New Zealand Parliament.\(^{52}\) The current National Human Rights Action Plan calls for a review of the gaps created by these patchwork provisions.\(^{53}\) These anti-discrimination provisions allow for special measures in order to “achieve an equal place in the community.”\(^{54}\) The Human Rights Act also delineates the mandate for the New Zealand Human Rights Commission (NZHRC) and creates a procedure for the resolution of complaints about non-compliance with Parts 1A and 2 of the Act, including the provision of remedies.\(^{55}\) New Zealand has specific legislation outlawing sex discrimination and sexual harassment at work,\(^{56}\) requiring equal pay for women,\(^{57}\) and providing paid parental leave.\(^{58}\)

Parental leave was extended in 2006 to include the self-employed.\(^{59}\)

The United States’ constitution guarantees equal protection of the laws, which encompasses a prohibition on sex discrimination, although the constitution permits some gender based distinctions.\(^{60}\) Federal statutes prohibit sex discrimination in employment and education, which may cover domestic or sexual violence committed at work or in schools;\(^{61}\) some state constitutions prohibit sex discrimination in employment, education, and, in some cases, public accommodations.\(^{62}\) Federal legislation mandates that men and women in the

---


51 See, K.M.K. NORRIE, National Report: New Zealand, 19 JOURNAL OF GENDER, SOCIAL POLICY & THE LAW (2012) at 265 (Noting that although the courts are “statutorily obliged to interpret legislation” consistent with these two Acts, they are “expressly prohibited” from using the Act to overturn a legislative provision.

52 Id.

53 Human Rights in New Zealand Today at Section 1, Chapter 3, No. 3.

54 Id. at Section 1, Chapter 3, No. 2.


58 Parental Leave and Employment Protection Act [1987] (N.Z.) (provides government-funded paid parental leave). Employers are required to provide up to 14 continuous weeks of maternity leave and up to two weeks of paternity/partner caregiving leave; parents can receive up to 14 weeks of paid parental leave. See Ministry of Business, Innovation & Employment, What paid and unpaid leave is available and when does it start. http://www.dol.gov.nz/er/holidaysandleave/parentalleave/paid-unpaid.asp.


60 See, e.g., U.S. Const. amend. XIV, s.1 (guaranteeing equal protection of the laws); The United States Supreme Court has stated that gender classifications may be permissible if they are supported by an “exceedingly persuasive justification,” which may be met by showing that the classification serves “important governmental objectives” and that the discriminatory means are “substantially related” to achieving those objectives. United States v. Virginia, 518 U.S. 515, 533-34 (1996). See generally, e.g., LENORA M. LAPIDUS, ET AL., THE RIGHTS OF WOMEN (2009).


same workplace be given equal pay; but men still earn more than women for comparable jobs. Australia, New Zealand and Canada are parties to the CEDAW Convention and to the Convention’s Optional Protocol. Former U.S. President Jimmy Carter signed the CEDAW Convention, but the United States remains one of only 6 U.N. Member States not to party to the agreement.

Overview and manifestations of VAW in the region

All four countries have recognized gender violence as a problem and have instituted a range of legal and policy-based reforms. With some variations and to differing degrees, each has established tracking and data collection mechanisms, legal protections, policy and programmatic responses, even though advocates articulate a range of shortfalls with these measures. To a large extent, the challenges faced by these countries are best characterized as those of implementation, of ensuring that all communities are adequately served, of avoiding unintended detrimental consequences, and of developing responses that effectively reduce or eliminate the problem.

Each of the countries issues reports documenting the prevalence of domestic and other forms of gender violence, although they are not uniformly comprehensive. The countries report relatively similar, and high, rates of abuse. For example, the most recent Personal Safety Survey, conducted by the Australian government in 2005, showed that fifteen percent of women above the age of 15 had experienced physical or sexual violence at the hand of a previous partner and just over two percent had been assaulted by their current partner. Canada’s governmental survey reports that an estimated six percent of those with a current or former spouse had experienced some form of physical or sexual abuse by their spouse in the previous 5 years. Canadian governmental reports conclude that the prevalence of sexual assault is difficult to quantify given low rates of disclosure and reporting. New Zealand’s National Survey reports that over a quarter of women had been physically abused by an intimate partner at least once in their lifetime. In the United States, intimate partner violence and sexual assault continue to be reported at high rates.

In all countries, domestic and sexual violence is committed overwhelmingly by men against women. Australia, New Zealand and Canada are parties to the CEDAW Convention and to the Convention’s Optional Protocol. Former U.S. President Jimmy Carter signed the CEDAW Convention, but the United States remains one of only 6 U.N. Member States not to party to the agreement.

8
Young women face greater risk of abuse,\textsuperscript{75} as do those who identify as lesbian or gay, those who are disabled, and those from indigenous, minority and immigrant communities.\textsuperscript{76} Recent studies in the United States suggest declines in the rates of intimate partner abuse, but black women experienced less of a decline than Hispanic women.\textsuperscript{77} Lesbians and gay men report similar rates of intimate partner abuse as heterosexual couples, although data are more limited.\textsuperscript{78} Transgender people, including those identified as male, also experience high rates of intimate partner violence, though data is sparse.\textsuperscript{79} Victims/survivors in custodial settings, women in the military, and those who face multiple, intersecting forms of discrimination, particularly native American, immigrant, and African-American women, face


\textsuperscript{76} See, e.g., Canada Statistics 2010, at 10 (Canadians 25-34 were three times more likely than those aged 45 and older to report physical or sexual abuse by a current spouse in the previous year); CITED ABOVE: Australian Bureau of Statistics, Personal Safety Survey Australia 2005 (Reissue), Catalogue No. 4906.0 (2006), at http://www.abs.gov.au/AUSSTATS/ subscriber.cat??product=4906.0... [accessed on 21 December 2012] (In 2005, twelve percent of women age 18-24 in Australia experienced at least one episode of violence while less than two percent of women over the age of 55 experienced the same).; Violence Against Women in Aotearoa New Zealand: The case for an integrated plan of action. (April 2009) (In New Zealand, young women experience rape and partner abuse at a higher rate than older women).

\textsuperscript{77} See, e.g., Canada Statistics 2010, at 11; See also, J. FASKOW, et al., Juxtaposing beliefs and reality: Prevalence rates of intimate partner violence and attitudes to violence and gender roles reported by New Zealand women, 16 VIOLENCE AGAINST WOMEN (2010), at 817 [reports that 57.6% of the Māori women, 32.4% of the Pacific women, 11.5% of the Asian women, and 34.3% of European/Other women included in their study experienced intimate partner violence (either physical or sexual) at some time in their lives)]. On violence against women with disabilities see, e.g., C. Frohmader, Submission to the Preparation Phase of the UN Analytical Study on Violence Against Women and Girls with Disabilities, Women With Disabilities Australia (2011). At http://www.wxwda.org.au/WWDAsubUNStudyViolenceWWDD ec2011.doc [viewed 2 January 2013] (notes that violence against women with disabilities is thought to be widespread but no comprehensive data have been collected).


particular vulnerabilities with respect to gender violence.80

Each of the countries in the CANZUS group has community-specific histories with gender violence. Aboriginal and Torres Strait Islander women in Australia navigate a complex history of “colonisation and dispossession”, marginalization and exploitation which make women less likely to engage authorities about the violence that they experience.81 In Fitzroy Crossing, for example, where over ninety percent of the population is Aboriginal, some of the older women moved there as children when the community had its first contact with non-Indigenous people. Many were brought to the area for protection from the “massacres” of Aboriginal people and this history colors the community’s contemporary interactions with authorities about intimate partner violence.82 In Canada, the British Columbia government established a Commission of Inquiry to investigate the number of women who have “gone missing.”83 Some of these disappearances may be linked to a serial killer, and many of the women have disappeared along what is known as the “Highway of Tears.”84 Aboriginal women and other vulnerable and marginalized women are disproportionately represented in the missing and murdered women across Canada.85

Domestic and sexual violence are under-reported to the police for reasons including fear of retaliation from abusers, perceptions that police and other officials will not adequately respond, and entrenched notions that these are personal matters that should be addressed privately.86 Victims/survivors in minority and immigrant communities are even more reluctant to contact law enforcement due to their experience of police and courts as oppressive rather than protective institutions.87 Many are concerned about collateral consequences of criminal justice reforms such as dual arrests, over-incarceration of communities, punishment rather than problem-solving.88

Legal and policy response to gender violence

All four countries have developed significant legal and policy-based responses to the widespread problem of gender violence. The following section highlights key examples of law reform and policy-based responses in each of the four countries in the region.

Law reform

Australia

In Australia, federalism has produced a lack of uniformity across states in legal and policy responses to gender violence.89 Domestic and family violence and sexual assault laws are developed in the states and territories since the Constitution locates criminal law at this level.90 At this point in time, all states have criminalized family and domestic violence, with the majority of state definitions including a wide range of crimes (e.g., economic and emotional abuse) and a broad range of situations (e.g., same-sex, patient-
carer and non-cohabiting relations).\textsuperscript{91} Discussion of a sexual assault victim’s reputation is prohibited under provincial ‘rape shield laws’ except in the Northern Territory, where it is allowed under some circumstances and with permission of the court.\textsuperscript{92}

In Australia, courts can issue civil protection orders to prevent future acts of violence; a breach constitutes a criminal offense.\textsuperscript{93} Each state and territory has its own legislation with regard to these matters.\textsuperscript{94} In some jurisdictions, for instance, a police officer can initiate a protection order, but the extent to which this is done varies tremendously.\textsuperscript{95} A number of states have pre-arrest presumptions in their laws, and some advocates express concerns about the way that they are applied (e.g., increase in the number of women being charged).\textsuperscript{96}

The Family Law Act (FLA 1975)\textsuperscript{97} is federal legislation that gives federal Family Court power “over ‘guardianship, custody, maintenance and access,’”\textsuperscript{98} and since 1996, has insisted that family violence be taken into account in all relevant matters.\textsuperscript{99} Concerns that aspects of this law put victims at risk by requiring victims to interact with perpetrators around custody arrangements, produced a series of amendments to the law.\textsuperscript{100}

In 2011, the government responded to criticism of 2006 amendments to that law, and enacted the Family Law Amendment (Shared Parental Responsibility) Act 2006. The most recent revisions to the law emphasize, among other things, that protection from abuse is of greater importance than the desire to promote joint custody.\textsuperscript{101}

A family violence provision exists in the Migration Act 1958 (Cth), with the purpose of allowing victims to maintain legal status without remaining in an abusive relationship. There are concerns, however, that the definition of violence in the law and the criteria for qualification leave many unprotected.\textsuperscript{102}

Under Australian law, the State Coroner may conduct an inquest into deaths in order to determine who the deceased is and how s/he died. The coroner’s investigation may prompt a criminal proceeding or be used in civil or insurance proceedings stemming from the death. In a recent submission, the Australian Human Rights Commission\textsuperscript{103} found that the state


\textsuperscript{92} J. KENNEDY & P. EASTEAL, Shades of Grey: Indeterminacy and Sexual Assault Law Reform, 13 FLINDERS LJ (2011) at 55.


\textsuperscript{95} See, S. ALLWOOD, et al., Law’s indifference to women’s experience of violence: Colonial and contemporary Australia, 35 WOMEN’S STUDIES INTERNATIONAL FORUM (2012) at 165 [police initiated protection orders as percentage of total orders issued: New South Wales—approximately three-fourths; Victoria—nearly half; South Australia and Tasmania—vast majority; Western Australia—almost none. She also notes, counter-intuitively, that police in Western Australia are legally required to investigate and take warranted action to address domestic violence.]


\textsuperscript{99} R. ALEXANDER, Moving Forwards or Back to the Future? An Analysis of Case Law on Family Violence Under the Family Law Act 1975 (Cth), 33 UNIVERSITY OF NEW SOUTH WALES LAW JOURNAL (2010) at 913; Family Law Reform Act 1995 (Cth). Chappell at 8-9; See also, Australian Law Reform Commission, supra ... at 157 (acknowledges that inconsistencies exist between state and territory family violence orders and Family Law Act custody arrangement. Although provisions exist to resolve these inconsistencies, the report acknowledges that they exist, in practice. It makes extensive recommendations for streamlining the system to ensure that family violence is appropriately taken into account).


violated its due diligence obligations under international law by its failure to investigate breaches of a restraining order; the failure of the parole system to prevent re-offending; the failure to promptly, thoroughly and seriously investigate allegations of domestic violence; the lack of integration of police systems and practices and the lack of integration of police, Department of Corrective Services and Department of Child Protection systems to ensure the maximum sharing of information was available to protect the deceased; the failure to provide adequate training to Police Officers regarding the nature and consequences of domestic violence and how to respond appropriately to situations involving domestic violence, particularly in relation to Aboriginal women.

Canada

As a federalist state, Canadian gender violence law reform has transpired at both the federal and at the provincial and territorial levels. Canada has adopted a multi-disciplinary approach to reform that includes legislation as well as policy and programmatic development. As in other countries, much reform has focused on criminal law. Most forms of family violence and sexual assault are deemed crimes, though the criminal code does not refer to any specific “family violence offence.” Instances of spousal or child abuse may be taken into consideration as aggravating circumstances for sentencing purposes. Amendments enacted in 2006 to Canada’s criminal code and evidentiary laws facilitate safe receipt of testimony by vulnerable victims, for example, by making available the use of closed-circuit television. These amendments also facilitate the criminal law enforcement of breaches of civil protection orders. Canada’s rape shield law has been scrutinized by its Supreme Court; the current provision sets forth a strict procedure to ensure that a defendant’s rights to a fair trial, as well as a complainant’s rights to privacy, are respected.

All jurisdictions in Canada have spousal abuse policies that, among other things, include some form of mandatory arrest provision. As in other countries, these policies have resulted in increased dual arrests. Although domestic violence may be taken into account in divorce and custody proceedings, many critique current approaches and urge legislation that would require consideration of

---

104 The facts of the case: Andrea Pickett was married to an abusive man for twenty-three years. There were thirteen children to the marriage. After their separation in 2006, Andrea applied for an order of protection, which her husband repeatedly violated; the police failed to take these violations seriously. Andrea also sought shelter for herself and her seven youngest children because she feared her husband would kill her. She was denied access to shelter multiple times. In August 2008, Andrea’s husband called her twice and threatened to kill her. Andrea reported the threats, and her husband was sentenced; he was placed on parole within months. The parole board ordered him to remain in a city a few hundred miles from Andrea’s home, but no measures were taken to ensure that he actually remained there. Several months later, Andrea’s husband tracked her down at the house she was hiding in and killed her on the front lawn.


---
domestic violence in custody determinations.\textsuperscript{115} Canadian courts have eliminated the common law rule that prevented spouses from suing one another, so tort actions now can be maintained against abusive spouses.\textsuperscript{116}

Gender is not specifically enumerated as a ground for asylum but Canadian courts have recognized gender-based prosecution as a basis for seeking and granting asylum.\textsuperscript{117} Courts have discussed other countries’ due diligence obligations in analyzing petitions seeking asylum protection, and have recognized that merely making preparations or establishing commissions of inquiry or conducting educational seminars are not enough to effectively protect women.\textsuperscript{118} Trafficking in persons is criminalized under the criminal code and may be punished by life imprisonment if aggravated assault or death occurs in the process of trafficking.\textsuperscript{119} However, Canadian advocates have raised concerns that the anti-trafficking laws focus on criminalization; they don’t specifically protect the human rights of trafficked persons.\textsuperscript{120}

At least one Canadian court has recognized law enforcement’s obligations to responsibly investigate calls to investigate gender violence.\textsuperscript{121} In Doe v. Metropolitan Toronto (Municipality) Commissioners of Police, the Ontario Court of Justice found that the Toronto police were negligent in their response to a series of four rapes in a particular neighborhood after a fifth woman was raped at knife-point by a stranger who broke into her apartment in the same neighborhood.\textsuperscript{122} The court also found that the police had violated the woman’s Charter equality rights, and her Charter right to security of the person.\textsuperscript{123} The case resulted in both payment of monetary damages as well as apology to the victim/survivor.\textsuperscript{124}

New Zealand

The Domestic Violence Act 1995 (DVA) defines domestic violence to include physical, sexual, and psychological abuse as prohibited conduct and included a provision for the mandatory seizure of firearms in domestic disputes.\textsuperscript{125} In a 2012 DVA review, the Ministry of Women’s Affairs suggested that ‘economic abuse’ be included in the definition of domestic violence contained within the Act.\textsuperscript{126} The DVA also defined broadly what constitutes a “domestic relationship”, including spouses, partners, family members, those that share a household, or have a close personal relationship.\textsuperscript{127}

The Act makes the primary remedy for domestic violence the protection order, and it triggers access to all other remedies outlined under the Act.\textsuperscript{128} The Act created a single protection order with standard non-violence and non-contact provisions and while this addressed some previous concerns of poor implementation, many similar concerns remain.\textsuperscript{129} The Act addressed both punishment and rehabilitation, by introducing stiffer penalties for breaches of protection orders and mandating rehabilitative programs for perpetrators of domestic violence.\textsuperscript{130} The Act also helped to provide redress to victims/survivors/victims by making available voluntary support systems and created protection for children in families affected with domestic violence with child custody, and property and residency needs.\textsuperscript{131} A 1998 case


\textsuperscript{117} Immigration and Refugee Protection Act (as amended), S.C. 2001, c. 27, \texttt{http://laws-lois.justice.gc.ca/eng/pdf/irpa-irpa27.pdf}.


\textsuperscript{120} Id. at §§ 279.01-79.011.


\textsuperscript{123} Id.

\textsuperscript{124} Id.

\textsuperscript{125} Domestic Violence Act 1995 (N.Z).


\textsuperscript{127} Domestic Violence Act 1995 (N.Z).


\textsuperscript{129} Id. at 1780-81; See also, Auckland Coalition for the Safety of Women, Report to CEDAW, October 2011 at 9, available at http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/AucklandCoalitionSafetyWomenChildren_CEDAW_S2.pdf, accessed on 27 July 2012 [hereafter-Auckland Coalition for the Safety of Women].

\textsuperscript{130} Id.

\textsuperscript{131} Id.
interpreted the DVA to include same-sex relationships.132

The 2008 Domestic Violence (Enhancing Safety) Bill amended the DVA to create police safety orders that allow them to immediately issue a safety order and remove a person who constitutes a threat from the home for up to five days.133 These are to be used in situations where there are insufficient grounds for arrest, but the officer believes domestic violence is taking place.134 The bill also removed a two-tier penalty system for protection order breaches and replaced it with the maximum penalty of two years in prison for any breach.135 This follows logically from the national “pro-arrest” policy which has been in effect since 1989, the impact of which has raised controversy.136

The Family Court system administers a number of statutes that take domestic violence into account but concerns remain that this system places victims/survivors at risk by making children’s safety women’s responsibility and requiring them to facilitate their ex-partner’s parenting.138

In 1985 the Crimes Act 1961 was amended to make rape within marriage a crime and to reduce the distinction between rape and other forms of sexualized violence. The law now criminalizes ‘sexual violations’ which include rape and ‘unlawful sexual connection’ (these include other forms of non-consensual sexual penetration or sexual-oral contact).139 In 1993 the maximum sentence for sexual violation was increased to 20 years.140 An amendment to the Crimes Act 1996 made female genital mutilation (FGM), and bringing a child to another country to perform FGM, expressly illegal.141 On the other hand, the Prostitution Reform Act decriminalized prostitution as part of an effort to promote the rights of sex workers.142 Due to decriminalization, sex workers believe that the attitude of police towards them has improved and they are more likely to report violence to the police.143

New Zealand law requires that victims/survivors be provided with welfare, health, counseling, medical or legal services as needed.144 Yet, legal aid is provided as a loan, not a grant and anti-violence advocates note that this creates real barriers to legal representation for victims/survivors of gender violence, particularly those from immigrant communities and those with limited financial resources.145

United States of America

In the United States, the federal and state governments have taken steps to address the problem, within the scope of their respective jurisdictional limits. For example, the United States’ Congress first enacted the Violence Against Women Act (“VAWA”) in 1994, and reauthorized it in 2000 and 2005.146 VAWA has steadily expanded funding, and recent reauthorizations have targeted resources to

134 Id.
135 G.R. HOOK, Does the Domestic Violence Act discriminate against Māori, 1 MAI REVIEW (2009) at 8. (These are: the Children’s, Young person’s and Their Families Act of 1989; the Care of Children Act of 2004; and the Domestic Violence Act).
136 Auckland Coalition for the Safety of Women, Supra note 129, at 8-9.
138 Id.
historically underserved groups. Notably, Congress in 2012 allowed the law to expire without reauthorization; advocates are engaged in ongoing efforts to persuade Congress to reauthorize it with improvements that would address the needs of Native American victims/survivors, of immigrant victims/survivors and of LGBT victims/survivors. One provision of the law enacted in 1994 was a civil rights remedy that provided a private right of action against a perpetrator of gender-based violence; that provision was struck down by the United States Supreme Court as an unconstitutional exercise of Congressional authority. Although federal criminal law has limited jurisdictional reach, provisions criminalize interstate domestic violence, rape and sexual assault, as well as female genital mutilation. The Department of Justice houses an Office on Violence Against Women, which is charged with providing federal leadership on the issue.

Other federal legislation addresses the economic sources and ramifications of abuse. Federal and state laws address the impact of gender violence on its targets’ work lives. In recognition of the difficulty of maintaining a job while navigating abuse, federal legislation allows states to exempt domestic violence victims from work requirements of federal public assistance laws. However, implementation is often ineffective or inadequate.

Human trafficking often encompasses sexual abuse and other exploitation of women. Federal law criminalizes trafficking and provides civil remedies for victims. State laws address the problem as well. Federal immigration law affords some relief to immigrant victims/survivors of domestic and sexual violence, trafficking, and other crimes. Federal, state and local laws reflect substantial advocacy to enhance safety, prevent violence, hold perpetrators accountable and provide redress, though these goals have not been achieved. In addition to the VAWA, all states have statutes that criminalize domestic violence though the scope of each state’s provisions and enforcement vary. Notwithstanding the proliferation of mandatory arrest policies, about which advocates are divided, and the development of law enforcement policies, law enforcement still often fails to respond or responds inappropriately. Nevertheless, the United States Supreme Court has held that there is no constitutional right to police enforcement of a protection order. That decision was challenged before the Inter-American Commission on Human Rights, which, contrary to the U.S. Supreme Court, found that the United States’ failed responses to a domestic violence victim/survivor seeking enforcement of her protective order violated international human rights obligations.

Many other legal initiatives have developed at the state level. Each state authorizes civil as well as criminal protection orders, which are the most frequently used legal and most effective remedy to address domestic violence. Nevertheless, effectiveness depends on proper enforcement and implementation; victims/survivors often are deterred from seeking them by policies that would require them to sever ties with abusers. Other interventions address child custody; recommended approaches require courts to impose a presumption against awarding custody to a parent who has committed domestic violence. An additional issue results from

---

147 Manjoo Report, supra note 74, at 1.
151 See generally supra note 61.
156 Id. at 4.
159 See, e.g., Lesley E. Orloff, et al., Introduction to Immigration Relief for Immigrant Victims of Sexual Assault and Glossary of Terms, in Introduction to Immigration Relief for Immigrant Victims of Sexual Assault (on file with author).
161 Goldfarb, supra note 61, at 3.
164 Lenahan v. United States, supra.
165 Goldfarb, supra note 61, at 5-7.
166 Goldfarb, supra note 61, at 6.
167 Goldfarb, supra note 61, at 8.
the common practice of blaming abused mothers for exposing their children to domestic violence. A landmark lawsuit brought in New York City established that mothers should not be penalized unless child protection services can establish that abuse in the home actually is harmful to children.168

State laws also have addressed sexual assault, primarily through reforms changing requirements of proof of resistance, force or non-consent, classifying sexual assault by levels of severity and making laws gender-neutral.169 Rape shield laws help avoid introduction of evidence about a victim’s private sexual conduct.170 Other reforms change the definition of rape to be inclusive of various forms of sexual penetration and to encourage routine reporting and data collection.171 All states have reformed common law rules under which a husband could not be charged with raping his wife; however, most states retain some form of marital immunity.172

Policy and programmatic responses

Australia

Australia’s National Plan to Reduce Violence Against Women and their Children (2010-2022) is an attempt to coordinate and further integrate efforts to address gender violence in Australia.173 Each state and territory has its own plan to realize the goals articulated.174 This Plan is national in scope, has bipartisan political support, and attempts to coordinate efforts across jurisdictions (federal, state and local).175 It also puts an emphasis on primary prevention. Importantly, the National Plan articulates a framework for action that will be realized through a series of four three-year plans, the first of which, “First Action Plan: Building Strong Foundations”, covers the 2010-2013 period.176 The Australian National Plan delineates six national outcomes that cover prevention, service provision, justice responses, holding perpetrators to account, and reducing violence in indigenous communities. Each of these outcomes has a series of related strategies and a measurable indicator of success attached. 177 Anti-violence advocates are cautiously optimistic about the Plan and prospect for its implementation. They are concerned, however, that it will be underfunded and that the prevention efforts won’t adequately get at the underlying causes of violence against women.

Recent programmatic initiatives target underserved communities, such as indigenous, rural, and LGBT victims/survivors, migrant women, and victims/survivors with disabilities178. Yet, concerns persist about whether the government is doing all it can to reach these communities.179 Primary prevention programs also target men. For example, MensLine Australia is a professional telephone and online support, information and referral service, helping men to deal with relationship problems. It offers 24/7 counseling services either by phone or online (video and chat versions).180

A range of other services exist in Australia, such as legal services that target primarily indigenous communities,181 shelters,182 and a national sexual assault, family and domestic violence counseling line.183 The government also has worked on a national policing strategy to combat trafficking for sexual exploitation;184 the Victoria police have introduced “multicultural liaison officers” to help them more

169 Goldfarb, supra note 61, at 110.
170 Goldfarb, supra note 61, at 10-11.
172 Goldfarb, supra note 61, at 11.
174 For links to the state and territory websites detailing these plans, see http://www.fahsia.gov.au/our-responsibilities/women/related-agencies/sites/reducing-violence-related-sites.
175 M.C. SIGORELLI, et al., Intimate partner violence against women and healthcare in Australia: charting the scene, 17 CIÊNCIA & SAÚDE COLETIVA (2012) at 1045.
177 Id.
179 See, e.g., N. GHAFOURNIA, Battered at home, played down in policy: Migrant women and domestic violence in Australia, 16 AGGRESSION AND VIOLENT BEHAVIOR (2011); Australian Study Tour Report, Supra __; For discussion of inadequate and uneven funding for prevention and services see, Duncan & Western at 7, 8, 10.
180 Men’s Line is NGO managed (On the Line) and funded by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), http://www.mensline.org.au/News-and-Events.html?Id=603.
182 E.g., Australian Study Tour Report, Supra __.
183 It operates 24/7, for more information see, www.1800respect.org.au/.
184 A National Policing Strategy to Combat Trafficking in Women for Sexual Servitude, Australia Government Department of Family, Housing, Community and Indigenous Affairs, Anti-People Trafficking Strategy.
effectively address violence in indigenous community.\textsuperscript{185}

In operation since 2001, the “Same Sex Domestic Violence Interagency” (hereafter “the Interagency”) includes a diverse group of stakeholders—police, anti-violence advocates, health care workers, representatives from women’s and queer organizations, and private practitioners. This group comes together once a month to monitor and review information about same-sex domestic violence.\textsuperscript{186} In spite of its very limited budget, and the fact that much of their work has been Sydney-focused, the Interagency has conducted and supported many projects that have increased awareness of same-sex domestic violence both within the queer community and among state and community agencies dealing with intimate partner violence.\textsuperscript{187}

Canada

Canada has established a government-funded Family Violence Initiative (FVI) to coordinate the work of multiple agencies to address violence within intimate relationships.\textsuperscript{188} The initiative promotes public awareness of the risk of abuse, and of protective factors associated with preventing family violence.\textsuperscript{189} FVI partner organizations advance ongoing public awareness and education, professional development and training, and research and evaluation initiatives that touch a range of disciplines and sectors to prevent an address family violence.\textsuperscript{190} Some provinces have launched their own Domestic Violence Action Plans, which, among other things, have increased funding for services and shelters.\textsuperscript{191}

Canada maintains a domestic violence hotline, and has a network of support programs at the provincial and regional levels.\textsuperscript{192} One focus is housing: Canada operates emergency shelters, as well as short term, transitional shelters, longer term housing with support services and safe home networks.\textsuperscript{193}

A Pan Canadian group of sexual assault centres promote legal, social and attitudinal changes needed to prevent and ultimately eliminate rape and sexual assault.\textsuperscript{194} The Association takes an explicitly feminist approach to violence prevention, linking violence against women with social, economic and political equality.\textsuperscript{195}

Programs in Canada increasingly address violence against aboriginal women, and urge participation of men in the process of combating violence against women.\textsuperscript{196} For example, the White Ribbon Campaign originated in 1991 as a response to the December 6th massacre in Montreal that took the lives of 14 women; it reflects men’s commitment to never committing, condoning or remaining silent about violence against women.\textsuperscript{197} Canada uses batterer intervention programs called “Partner Assault Response (PAR)” programs, though research is inconclusive about the effectiveness of these and similar programs.\textsuperscript{198}

Other initiatives include specialized domestic violence courts, which have had some success in promoting offender accountability, expediting the justice process, and increasing victim satisfaction and access to services in the United States.\textsuperscript{199} Research indicates that specialized domestic violence courts have had some success in Canada as well, in that they have led to reduced recanting, increased collaboration among domestic violence stakeholders, and victim support, as well as speeding up the justice system and

---


\textsuperscript{186} KATE DUFFY, There’s No Pride in Domestic Violence: The Same Sex Domestic Violence Interagency, Sydney, Australia, in INTIMATE PARTNER VIOLENCE IN LGBTQ LIVES (J.L. Ristock ed. 2011), at 488-9.

\textsuperscript{187} Id. at 18.


\textsuperscript{189} Id.


\textsuperscript{194} See Canadian Association of Sexual Assault Centres, http://casac.ca/content/about-us-membership.

\textsuperscript{195} Id.

\textsuperscript{196} CEDAW, Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/CAN/CO/7 (7 Nov. 2008) (“Canada Concluding Observations”) para. 29.


\textsuperscript{198} Id. at 30-31.

referring low risk offenders to treatment with low recidivism rates.\textsuperscript{200}

Notwithstanding these and other initiatives, certain communities and classes of individuals within the country remain underserved. In particular, many express concern that the State has not adequately investigated the situation relating to missing and murdered Aboriginal women.\textsuperscript{201} Overall, funding for shelter and other services, particularly for Aboriginal women, women with disabilities, immigrants, refugees and trafficked and rural and northern women, remain inadequate.\textsuperscript{202}

In Canada as in the United States, some express concern that an “anti-feminist backlash” jeopardizes progress made in focusing attention on the disproportionate impact of domestic and sexual violence on women.\textsuperscript{203}

New Zealand

New Zealand’s government and civil society sector have created a host of action plans, programs and services to address gender violence. For example, the Ministry of Women’s Affairs, established in 1984, addresses violence against women as one of three major prongs of work.\textsuperscript{204} In 2002, the government enacted a national family violence prevention strategy, called Te Rito.\textsuperscript{205} It identified eighteen specific areas for further action, including mechanisms to monitor progress, improve cross-sectorial integration, and prioritize Māori approaches.\textsuperscript{206} A 2009 review of Te Rito noted progress as well obstacles to success.\textsuperscript{207} To move high level coordination forward, the government subsequently created the Family Violence Ministerial Group\textsuperscript{208} (FVMG) and an Interagency Taskforce for Action on Violence within Families (TAVF).\textsuperscript{209} In 2007, the TAVF launched the Campaign for Action on Family Violence, frequently known as “It’s not OK!” campaign. It confronts commonly held attitudes about domestic violence, challenging the notion that it is a personal matter to be kept between the victim/survivor and the abuser.\textsuperscript{210} The White Ribbon Day is an additional campaign aimed at engaging men in the fight against domestic violence.\textsuperscript{211}

In March 2007, the Ministry of Justice created the Taskforce for Action on Sexual Violence to complement the work of the TAVF.\textsuperscript{212} It provides leadership and coordination across government and non-government groups. The Taskforce generated a report that included 71 recommendations for action,\textsuperscript{213} but the administration has since changed and the party in power has backed away from these recommended actions.\textsuperscript{214}


\textsuperscript{201}CEDAW Concluding Observations, para. 31, 32. But see CEDAW/C/Can/CO/7/Add.1, Response by Canada to the recommendations contained in the concluding observations of the Committee following the examination of the combined sixth and seventh periodic report of Canada on 22 October 2008, at paras. 37-64-77 (discussing Canada’s responses).

\textsuperscript{202}CEDAW, Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/Can/CO/7 (7 Nov. 2008), (“Canada Concluding Observations”) para. 30

\textsuperscript{203}See, e.g., Ruth M. Mann, Men’s Rights and Feminist Advocacy in Canadian Domestic Violence Policy Arenas, 3 Feminist Criminology 44 (2008); Canadian Women’s Foundation, The facts about violence against women, http://www.canadianwomen.org/facts-about-violence (asking whether males are just as likely to be victims as females); see also, e.g., MOLLY DRAGIEWICZ, EQUALITY WITH A VENGEANCE: MEN’S RIGHTS GROUPS, BATTERED WOMEN, AND ANTI-FEMINIST BACKLASH (2011)

\textsuperscript{204}http://mwa.govt.nz/


\textsuperscript{206}Id. at 16-17.

\textsuperscript{207}Family and Community Services. 2009. Review of the Te Rito Phase II Collaborative Community Family Violence Prevention Fund, Wellington, New Zealand; FACS, April.

\textsuperscript{208}Family Violence Ministerial Group, UN Secretary General’s database on violence against women, http://webapps01.un.org/vawdatabase/countryInd.action?countryId=955 (last visited Mar. 12, 2012).


\textsuperscript{212}Taskforce for Action on Sexual Violence, UN Secretary General’s database on violence against women, http://webapps01.un.org/vawdatabase/countryInd.action?countryId=955 (last visited Mar. 12, 2012).


The government of New Zealand does invest in a number of additional anti-violence initiatives: an important national centre/website for the latest information about family violence, called the Family Violence Clearinghouse;\(^{215}\) training health care personnel to recognize and respond;\(^{216}\) funding an NGO partnership to provide helpline services;\(^{217}\) and, providing funding for shelters,\(^{218}\) some of which provide services in multiple language and specifically provide culturally appropriate services, although advocates note chronic underfunding and inadequate provision in immigrant, Indigenous, LBT, young and disabled communities.\(^{219}\)

United States

The United States also has developed a range of programs and services to respond to the problem. A National Domestic Violence Hotline provides victims of domestic violence with 24-hour access information, help, and support.\(^{220}\) There are nearly 1300 domestic violence shelters in the United States, many of which provide counseling and other programs as well as shelter.\(^{221}\) Every state has a coalition of domestic and/ or sexual assault providers that coordinate state-based advocacy and services.\(^{222}\)

The current U.S. President has taken steps to address the problem. In addition to appointing a White House Advisor on Violence Against Women,\(^{223}\) he has announced a global strategy to address the problem.\(^{224}\) This recent initiative recognizes the importance of engaging women and girls from all communities, engaging men and boys as allies, and engaging religious, communities, business, and representatives from all sectors of government and civil society, as well as the importance of understanding the causes and socio-cultural dynamics that perpetuate violence, and in considering the potential impact of all efforts to do no harm to those the efforts intend to support and protect.\(^{225}\) The initiative articulates laudable goals, although programmatic implementation is focused on international, rather than domestic initiatives.

Other innovations aim to improve the justice systems’ response to gender violence. States increasingly have created specialized domestic violence courts to address the problem in a more holistic manner.\(^{226}\) A recent study found that, although the courts reflect wide variation in policies and protocols, they generally were successful in enhancing victim safety and offender accountability.\(^{227}\) In an attempt to avoid the problems associated with the criminal justice system, programs advocate mediation and other alternative approaches.\(^{228}\)

Other initiatives focus on sexual assault. The National Institute of Justice has found that Sexual Assault Nurse Examiners ("SANE") and Sexual Assault Response Teams ("SART") enhance the quality of health care for women who have been sexually assaulted and improve law enforcement responses.\(^{229}\) Although sexual assault kits have been found to significantly assist law enforcement investigation of assaults, severe backlogged and untested sexual assault kits are a

---

\(^{215}\) Contesse & Fenrich, Supra note ___ at 1792; See also, Clearinghouse website at http://www.nzfvic.org.nz/.  
\(^{218}\) Women’s Shelters, UN Secretary General’s database on violence against women, http://weebbss01.un.org/vawdatabase/countryInd.action?counryId=955 (last visited Mar. 12, 2012).  
\(^{219}\) Auckland Coalition for the Safety of Women, Supra note 129 at 7 (The National Collective of Independent Women’s Refuges Incorporated provides sixty-two shelters around New Zealand but advocates point to chronic underfunding of these services as well as recent government cutbacks).  
\(^{227}\) Id.  
\(^{228}\) See, e.g., Goldfarb, supra note 61, at 13 (describing programs while raising concerns about effectiveness and about the risk of “deemphasizing the wrongfulness of violence against women.”); see also, e.g., Angela P. Harris, Heteropatriarchy Kills: Challenging Gender Violence in a Prison Nation, 37 J. Law & Pol’y 13, 38-64 (2011) (discussing restorative and transformative justice approaches).  
major problem impeding justice for victims/survivors of these crimes.  

Recent programmatic initiatives target underserved communities, such as communities of color and Native American victims/survivors, rural, and LGBT victims/survivors.

Themes and Contrasts

Overall, policy initiatives in these countries have largely been focused on increasing criminal justice responses, as well as on expanding social services for victims/survivors.

While much progress has been made in improving policies and procedures requiring police and prosecutors to take gender violence seriously, the focus on increasing criminal justice responses has produced unintended consequences. Problems both with under-enforcement and over-enforcement remain. For example, efforts to ensure law enforcement response have resulted in over-enforcement, including dual arrests, arrests of the victim, and arrests of perpetrators against the wishes of the victim. Advocates are divided about the efficacy of mandatory criminal justice interventions, with some applauding a more vigorous response, while others object that those policies infringe on women’s autonomy, disproportionately impact minority communities, increase the risk that women will be subjected to retaliatory violence, and increase the likelihood that battered women themselves will be subjected to arrest. Many support “pro-arrest” and “pro-prosecution” policies rather than strict mandatory intervention approaches.

Victims/survivors report accounts of disproportionate arrests of women of color following incidents of intimate partner violence, and of law enforcement invoking stereotypes about African-American women as “more aggressive” to justify failing to differentiate between victim and perpetrator. Similar concerns are raised about the treatment of Aboriginal and Torres Strait Islander women in Australia, noting the treatment of women who defend themselves against an abusive partner. Women who are wrongfully arrested during a domestic violence incident may find the incident used against them in subsequent custody proceedings. Mandatory arrest laws or pro-arrest policies remain controversial, with some advocates applauding increased criminal justice responses and others critiquing the resulting over-criminalization, infringement of victim’s agency and autonomy, and lack of data establishing a meaningful impact on recidivism.

Under-enforcement remains a problem as well, though countries take different approaches to the problem. One Canadian court held that Toronto’s police were negligent and violated a woman’s equality rights under the Canadian Charter, when

234 See generally, e.g., LISA A GOODMAN & DEBORAH EPSHTEIN, LISTENING TO BATTERED WOMEN: A SURVIVOR-CENTERED APPROACH TO ADVOCACY, MENTAL HEALTH, AND JUSTICE 1-6 (2008). 
235 See, e.g., Canada Concluding Observations, para. 29, 30 (expressing concern about “dual charging” and urging “primary aggressor” policies); See also, ‘I lived in fear because I knew nothing’; Barriers to the justice system faced by CALD women experiencing family violence, (2010), available at http://www.la.govv.net.au/admin/file/content/100/c4/legall%208carriers%20Report%202010.pdf, accessed July 2, 2012 [reports that some abusers were manipulating the pro-arrest stance of the police by filing for protection orders when police arrived at the scene of an assault, in some cases the women themselves did not understand what was happening]. ROCHELLE BRAAF & CLARE SNEDDON, Arresting practices: exploring issues of dual arrest for domestic violence

§ No. 3 [Australian Domestic and Family Violence Clearinghouse 2007], available at http://www.adfvc.unsw.edu.au/PDF%20files/Stakeholder%20Paper%2003.pdf, accessed on January 2, 2013, at 2 [discusses a report by the Redfern Legal Centre’s Women’s Domestic Violence Court Assistance Scheme, which identified a 23% increase from 1 July 2005 to 30 June 2006 in the number of contacts the group had from female defendants in domestic assault cases. While data are sparse, it is widely thought that dual arrest policies are key to such increases.].
236 Goldfarb, supra note 61, at 4.
237 Goldfarb, supra note 61, at 4.
238 Manjoo Report, supra note 74, at 14.
239 Auckland Coalition for the Safety of Women, supra note 129 at 9.
240 See, Manjoo Report, supra note 74, at 18; See generally, V. ELIZABETH, et al., “... He’s Just Swapped His Fists for the System” The Governance of Gender through Custody Law, 26 GENDER & SOCIETY (2012) (provides a typology of how gender dynamics are produced and interpreted through the court system so that non-resident fathers are able to manipulate and infringe upon the rights of resident mothers. Based on interviews done with women in New Zealand).
they knew of a series of rapes in her neighborhood and had failed to adequately investigate or otherwise take the crime of sexual assault seriously. By contrast the United States Supreme Court rejected a victim’s/survivor’s claim that law enforcement violated her procedural due process rights when they failed to take meaningful responses to her calls asking for enforcement of a protective order, after her ex-husband abducted her children, culminating in a shootout that left her three children dead.


The due diligence standard obligates governments to take positive action to prevent inter-personal violence, even when the violent acts are committed by non-state actors in the private sphere. For our purposes, prevention encompasses measures taken by the government to impede VAW from occurring. Prevention programs sometimes target perceived causes of interpersonal violence and often include awareness campaigns, training, research and education.

**THEMES – National Plans to Prevent Gender Violence:**

- Of the four countries addressed in this report, only Australia has made a concerted attempt to construct such a national plan.
- Comprehensive plans must encompass all jurisdictions, include clear goals and measurable outcomes, be adequately funded and supported, and be culturally competent.

Advocates understand a state’s due diligence obligations to include high-level, comprehensive, multi-sectoral planning that encompasses all aspects of gender violence prevention, protection, service provision, prosecution, punishment and provision of redress. Of the countries included in this report, Australia is the only one to have made a serious attempt at developing and implementing a national plan to combat violence against women. The United States has enacted federal legislation and, like Canada, has implemented some federal initiatives, while New Zealand has created two national taskforces—one on sexual violence and the other on violence within families—with the express purposes of developing comprehensive, integrated plans of action. Implementation of the taskforces’ recommendations have, however, been limited (this is especially true of the Taskforce for Action on Sexual Violence) and advocates express sizable frustration at government’s lack of political will.

Canada has a Family Violence Initiative aimed at coordinating government agencies’ responses, and the First Nations’ Family Violence Prevention Programme provides operational funding for thirty six shelters and supports approximately 350 community-based prevention projects. Some provinces have developed their own action plans, like Quebec’s Government Directions Concerning Sexual Assault, but advocates criticize its lack of attention to the needs of immigrant and refugee women, women from visible racial minority groups, women with disabilities, and lesbians. They also express concern that funding provided for implementation is inadequate. Canada’s National Crime Prevention Strategy does fund some programs related to violence in the family.

Advocates are hopeful that Australia’s National Plan to Reduce Violence Against Women and their Children (2010-12), will result in significant strides in the fight to address gender violence but largely suggest that it is too early to determine whether it has fulfilled its potential. In part, they express concern that the Plan is and will be underfunded and that prevention efforts will not adequately address underlying causes of gender violence. The Australian Plan delineates six national outcomes that cover prevention, service provision, justice responses, holding perpetrators to account, and reducing violence in indigenous communities. Each of these outcomes has a series of related strategies and measurable indicators of success.
THEMES – Anti-Violence Programming

- Advocates suggest that successful anti-violence efforts are well-coordinated and multi-sectoral, involving all relevant government and non-governmental actors.

- Advocates suggest that successful programs are culturally appropriate; targeted programs and messages should reach all communities.

- Advocates in all four countries indicate that many programs exist but that they are uneven and chronically underfunded. Prevention programs frequently:
  - Fail to address root causes of gender violence;
  - Fail to address social inequality;
  - Fail to appropriately target all communities (esp., racial and ethnic minorities, immigrants, people living with disabilities, rural populations, same-sex domestic violence.

- Advocates say that prevention efforts must go beyond simply raising awareness and must address root causes of gender violence (e.g., social norms, inequality). In this regard, reaching children is particularly important. Advocates frequently noted that prevention efforts pay inadequate attention to structural inequality.

- Advocates frequently stressed that economic inequality increases women’s vulnerability to gender violence (especially noted poverty and fear of homelessness).

Advocates support implementation of multi-sectoral, inter-agency, coordinated approaches. Due diligence to prevent gender violence requires coordinated programming since no single strategy or program alone will be effective. Advocates in New Zealand, explicitly call for the government to take a more comprehensive, multi-sectoral, integrated approach to addressing gender violence. Likewise, some Canadian advocates articulate a need for better coordination of services and referrals.

Some attempts at developing this type of coordination have occurred, for example in the Australian state of Victoria. Advocates note that their all-of-government approach includes law reform, courts, policing, human services, offender programs, housing, education, and prevention efforts as well as coordination between ministers, government departments and community organizations and services.

All anti-violence programming is not created equal. Advocates in these four countries overwhelmingly agree that the best prevention programs are community led and driven, with some suggesting that programs that focus on challenging gender stereotypes and promoting healthy relationships, as opposed to those that frame the problem narrowly as violence prevention, are most effective. Advocates identify a range of good practices. For instance, a Canadian advocate says that the “Violence Prevention Toolkit”, created by aboriginal youth is a good example of such an initiative. Our Nokomisendaad (Grandmother’s House in Ojibwe) co-occurring disorder treatment program for Native women with addictions and mental illness brought about by sexual violence is also an example of culturally appropriate programming. Advocates in the U.S. state of Minnesota praise programs that use culture to help in the healing process and maintain that that approach helps prevent future victimization. Advocates applaud programs that promote community accountability.

Some activists note the value of general public education programs like the Canadian “Neighbours, Friends and Families” as a means of raising public awareness of violence against women. However, advocates strongly argue that due diligence requires that prevention efforts go beyond awareness raising and post-incident interventions. It must include efforts to minimize structural inequality. Advocates strongly agree that economic dependence makes women more vulnerable to gender violence and thus redressing economic inequality is key to prevention efforts. For example, income disparities, limited access to adequate employment, to safe and secure housing, health, education, and justice all impede Māori women’s attempts to live free from violence, say New Zealand advocates. In the United States, emerging programs address economic justice as key to efforts to end gender violence.

In addition to addressing economic inequalities and insecurity, prevention efforts must tackle the root causes of violence. Advocates in New Zealand suggest, for instance, that the Taskforce for Action on Violence within Families’ signature prevention effort—the ‘It’s not OK’ campaign—does not adequately tackle the root causes of violence experienced by migrant and refugee women. They state that it needs to integrate an intersectional understanding of discrimination. Others suggest that while the program has some value, it has not addressed the causes of domestic violence or the gendered nature of violence, and thus has had limited success in decreasing incidence.

The Australian government has invested in a primary prevention strategy called “Respectful Relationship” that seeks to reduce sexual assault and domestic and family violence by through educational institutions and curricula. The Government is working through the Australian Curriculum, Assessment and Reporting Authority to support the inclusion of this program in school curricula. Although advocates laud bringing
primary prevention efforts into schools, some are concerned that the program does not go far enough to address the root causes of gender violence.

Canadian advocates also highlight the importance of bringing anti-violence programs inside schools, and were concerned that this is only happening in particular areas and under the jurisdiction of supportive school boards. These efforts should include programs for children who are exposed to violence, suggest some advocates in the United States. It is, they note, particularly important to identify and target the groups most at risk. Advocates in the U.S. state of Texas note that they have received modest funding for a project called Coaching Boys Into Men. This specific project allows advocates the opportunity to work with high school football programs in the Ft. Worth area to create and promulgate prevention messaging. They worked with the High School Coaches Association in developing this project.

Advocates from these four countries note the critical importance of having prevention programs reach all communities as this is key to acting with due diligence to prevent gender violence. While advocates point to examples of good prevention programs, they also consistently note that these efforts are underfunded and thus have too limited reach. The Same Sex Domestic Violence Interagency is one such initiative in Australia. Advocates enthusiastically endorse its structure, goals and efforts but note that it is seriously underfunded and so is largely limited to those in the Sydney area. They also note inadequate prevention efforts in Aboriginal and Torres Strait Islander communities and programs addressing women with disabilities and reaching women in rural area. In New Zealand, advocates express concern about inadequate programs in Māori, refugee and immigrant communities. In the United States, advocates indicated that Our Oskinigikwe program (young woman in the Ojibwe language) has been identified as a good practice in preventing commercial sexual exploitation of urban Native girls, but the state has just eliminated funding for this program.

Advocates from all four countries highlight the important of targeting some prevention efforts at men and boys. For instance, in the United States, the federal government’s Centers for Disease Control funds programs that raise awareness and engage boys and men in changing cultural norms. This is important, advocates say, because most anti-violence work focuses on points after violence has occurred.

**THEMES – Research and Data Collection**

- Program content needs to be based on sound research about the nature of the problem and what is most likely to successfully address it. Research needs to inform work on all aspects of prevention, protection, prosecution, punishment and provision of redress.

- Collecting comprehensive data on gender violence is necessary for developing effective prevention efforts. Need to create a feedback loop between research/data analysis and program design, using the information to consistently (re)develop programmatic efforts.

- Advocates indicate that data collection often becomes a serious political issue and that governments sometimes fail to collect critical information but still base their assessment of the problem on incomplete information.

- Advocates indicate that some kinds of information are collected more than others and that government data collection and research efforts are regularly inadequate with regard to gender violence in same-sex, transgender, immigrant, refugee, aboriginal, native, racial and ethnic minority communities, and among those living with a disability.

- Advocates suggest that inadequate funds are allocated toward data collection and research about IPV.

Sound research and data collection efforts are a critical to effective anti-violence efforts as they ensure that efforts to fulfill international human rights obligations are evidence-based. As a result, advocates in all four countries express a need for and concern about comprehensive data that is disaggregated by race, ethnicity, gender, disability, sexual orientation, and immigration status. Some Canadian advocates applaud regular government funding for research on gender violence in a multicultural context. Others, however, note that the decrease in funding for Status of Women Canada has resulted in cutbacks to a number of anti-violence organizations. These funding cuts, they contend, make it extremely difficult for NGOs to track and record gender violence statistics and so they have to rely on the government’s inadequate data collection efforts. In particular, they express concern that government numbers do not disaggregate incidents of violence by race, disability and income levels. Furthermore, they note that “unfounded cases”—a police determination—and unreported incidents, remain problems. In the United States city of Philadelphia, police investigations of sexual assaults improved after advocates exposed police practices of mis-coding sexual assault complaints. In addition, the privatization of court reporting has made transcripts of gender violence cases expensive to
obtain and so NGO monitoring is very limited. All of these things work together to make it difficult to ensure a research-based anti-violence practice.

In Australia, the lack of disaggregated data is a general concern of the movement for gender equality. Australian advocates have called on the government to provide the necessary resources to the Office for Women and other collection and reporting agencies (particularly the Australian Bureau of Statistics) to improve the public availability of gender disaggregated data. There are weaknesses, they suggest, in terms of access, analysis and reporting of data. They further highlight that data needs to be consistently collected so that patterns and changes can be identified over time.

Advocates in New Zealand frame the lack of reliable, time-indexed data on sexual and family violence as a key concern. They further note having written to the Commissioner of Police about data collection practices, following family violence-related incidents. In this communication they expressed concern that such offences were no longer specifically identified in the official statistics for recorded offenses and that available data is variable and difficult to locate.

Consistent and accurate definitions are essential to effective policy reforms. In the United States, advocates recently succeeded in updating the definition of rape used for uniform tracking of crimes. Similar efforts to ensure consistent definitions of domestic violence make national survey data more comprehensive and useful.

Ensuring evidence-based practice requires more than collecting comprehensive data. It necessitates the regular analysis of data collected and then a mechanism for feeding it back into training, policy and programmatic work. In Canada and the United States, “Court Watch” programs provide such a data collection/research feedback loop. In these programs, advocates and researchers sit in on gender violence cases and monitor the actions of legal actors. The information garnered is used to identify training needs for legal actors as well as needed reforms in policy and practice. In some cases, the information is used to publish an annual report card on violence against women in the courts. While this work has been done in a number of Canadian provinces, it is tith and largely unfunded. In Australia, advocates note a host of behavioral change groups for men, and express concern that their content and efficacy is not always monitored. As these examples indicate, good practices use data to provide direct feedback into policy, service provision and/or program development. These examples are more patchwork than blanket practice.

With government support, New Zealand and Australia both have national centers for collecting, collating and disseminating information about family and domestic violence. In recent years, the United States government has funded specialized centers focusing on the particular needs of victims/survivors in marginalized communities, such as African Americans and Native Americans. The Australian Domestic & Family Violence Clearinghouse publishes quarterly newsletters and papers on key issues, policy, programs and legislation. They also maintain a library of research and resources, many of which are available online. They also have a database of good practice programs and sometimes conduct original research to fill identified gaps. The Family Violence Clearinghouse in New Zealand, has the same general purpose but their more limited in scope.

Advocates note that even in cases where data on gender violence is collected, it is not always available disaggregated by minority status. For instance, advocates from all four countries note the lack of available data on domestic violence in same sex relationship and in the transgender community. Advocates indicate limited research and data collection on gender violence in the Australian Aboriginal community and in immigrant communities in New Zealand. Similar limitations in tracking, for example, domestic violence in LGBT relationships limit the utility of U.S.-derived data.

Finally, advocates note that data collection decisions and the implications thereof are not outside of politics. The New Zealand government, they note, does not record instances of female genital cutting and circumcision but also claims that the practice is not an issue in the country. This claim directly contradicts the experiences of anti-violence advocates working in refugee and immigrant communities in the country.

244 See, Australian Domestic & Family Violence Clearinghouse at http://www.austdvclearinghouse.unsw.edu.au/ (Funded under through the Office for Women, Department of Families, Housing, Community Services and Indigenous Affairs, is a project of the Centre for Gender-Related Violence Studies, School of Social Science and International Studies at the University of New South Wales); The New Zealand Family Violence Clearinghouse at http://www.nzfvc.org.nz/ (based at the School of Population Health at the University of Auckland and is operated under contract from the Families Commission).
Protection keeps the victim/survivor safe from present harm. This includes avoiding the re-occurrence of further violence and ensuring the victim/survivor receives adequate and timely services.

THEMES: Government funding / support

- Many protection services in these four countries are partially funded by the state. Many programs involve some sort of government/NGO collaboration. This often means that government funds (full or partial) and NGOs execute programs.

- Advocates strongly expressed that government funding for protection services is inadequate, sometimes tokenistic, and that recent cutbacks have been noteworthy.

- Advocates simultaneously articulate a need for legislation that authorizes/provides a wide-range of services and but also raise concerns about the role of the state in providing them.

The four countries discussed in this report have all acknowledged, to varying extents, that they have a role to play in preventing and addressing gender violence. They provide direct support through the work of agents of the state (e.g., law enforcement, education, some health care provision, etc.) and through collaborations with civil society actors. These partnerships often mean that NGOs provide the services or carry out programs with funding, either in full or part, from government. Advocates from all four countries report however, that government funding for protection services is inadequate to meet the need. They express concern that government support is extremely uneven, varying by state, province, region, and even municipality, and that recent cutbacks have further hurt their abilities to provide protection services.

Advocates from the United States, for example, strongly suggest that while support varies widely across and within states, and while access depends on many issues (including whether someone has health insurance), there are always barriers and almost never enough government support. Some advocates from Australia express concern that government funding is tokenistic—providing just enough to be able to look like they are doing something but not enough to fully address the problem. And, while they generally praise the Australian government’s National Plan to Reduce Violence Against Women and their Children as a major step in the right direction, they express concern that implementation efforts are underfunded. New Zealand advocates express distress that government relies on NGOs but underfunds them. Many Canadian advocates indicated that recent federal government budget cuts to women’s programs show that protecting women from gender violence is not a priority and that many community support systems are struggling as a result.

Survey respondents also express a tension between the desire for government support and action, on the one hand, and concerns that government interventions can be punitive toward victim/victims/survivors or designed in such a way that they do not address the roots of the problem. This paradox is evident, for example, in the frustration that advocates articulate about government reliance on community or NGO partners; sometimes feeling frustrated at the way that government ‘passes the buck’ to them. Yet, they also consistently express a desire for additional government support (financial and otherwise) for their organization’s efforts. This tension is also apparent in advocates’ desires for strong law enforcement measures that take seriously the dangers from gender violence many women face, paired with advocates’ concerns that some law enforcement measures inappropriately penalize women for bringing their partner’s abuse to light.

THEMES -- Type of services provided:

- A wide range of services are needed and they must address emergency, short term and long-range issues. Advocates report that provision is uneven.

- Services must be multi-sectoral and coordinated [e.g., “one-stop” centers] but many advocates indicate that services are often disjointed and do not connect all relevant players (e.g., health care, anti-violence organizations, police, child protection services).

- Services should always empower victims/victims/survivors but advocates report myriad examples that do not do so.

- The range of comprehensive services include, e.g., integrated health services, helplines and websites, shelter and housing, counseling and legal services, services for specific groups of
victims, e.g., disabled victims, and those from underserved communities.

- Adequate shelter space is needed to deal with emergency, short-term, and transitional housing needs.
- Civil legal services are crucial to protecting women from violence but advocates report that many women don’t have adequate access to such services.

A state’s ability to meet its due diligence obligation to protect citizens from gender violence requires a wide range of services to address the needs of victims, victims/survivors, and their children. In particular, advocates strongly support multi-sectoral, coordinated approaches to service provision as well as the provision of services to deal with emergency, short- and long-term protection needs. Advocates suggested that services are sometimes disjointed and this creates gaps in service provision and reduces the efficacy of efforts to address gender violence. They suggest that the coordination of services is critical to ensuring that all gaps are filled and that the risk to victims/victims/survivors is held to a minimum. Advocates in Australia are generally positive about the way the government’s National Plan indicates movement toward fulfilling their due diligence obligations. They are generally positive about the Plan’s broad reach and the steps it makes toward coordination but also indicate that it is too early to judge the extent to which these efforts have produced results.

Advocates generally see the creation of “one-stop” centers and other efforts designed to enhance cross-sectoral collaborations to address gender violence useful to helping a state meet its due diligence obligations. As some Canadian advocates indicate, such developments are promising though not available everywhere. Advocates from New Brunswick indicate that while one-stop centers exist in central Canada, centers that bring together medical, legal and support services are absent from their province. One example of this type of multi-sectoral, coordinated prevention effort is the Auckland, New Zealand based HELP: Support for Sexual Abuse Victims/survivors program. It is a crisis intervention service that while underfunded, according to advocates, facilitates interaction between specialist services where all participate as equal partners. The program operates based on written memorandums of expectations, ethics and practice between police, specialized medical and counseling services. Advocates talk about the crucial need for this type of coordinated protection services in minority, immigrant and indigenous communities. Advocates in New Zealand’s Māori community, for instance, note the need for a tripartite relationship between sexual violence services, police and health services.

Similarly, advocates from the U.S. State of Texas, report wide variability in the availability of one-stop shops and discuss the further variability of these models. In particular, they highlight the challenges of integrating existing services into a newly created one-stop center and suggest, instead, that many communities have moved to co-located services in domestic violence shelters or resource centers (including e.g., medical services, law enforcement, work-force development, day care or school facilities). The best examples, they indicate, work in a highly coordinated fashion. Some advocates in the United States, for example, report favorable results with programs that enhance law enforcement / domestic violence service provider collaborations in response to domestic violence calls, though the optimum form coordinated services take will vary depending on the structure of services in a particular community.

Other promising practices advocates’ highlight include programs that work with children from the moment of their entry into the system and continues with follow-up support after a mother has left short-term shelters. Programs such as this, some Canadian advocates’ state, are crucial to combating an inter-generational cycle of abuse and fulfilling a state’s due diligence obligations. Some Australian advocates laud the work of Family Safety Units that exist in some local police forces, saying that they help promote consistent and reliable police responses to breaches of intervention orders.

Advocates in all four countries report the importance of having a 24 hour national helplines. The Areyouokay helpline in New Zealand, advocates note, is government funded and is especially important for women in rural areas where there is a general lack of services.

Advocates unanimously see a need to ensure that services provided to victims/victims/survivors are empowering to women using them. In Alberta, Canada, advocates report that the family violence hotline is directly linked to the Child and Family Services agency. This linkage makes women fear that they will lose their children if they raise the specter of gender violence. Advocates frequently express concern that women remain in abusive situations for fear of losing their children or that a history of violence is not adequately taken into account in deciding custody and visitation in family court matters.

THEMES – Access to services

- Advocates report that access to services is highly constrained and unevenly provided.
- Across the board, advocates report significant access barriers for women from particular communities, especially:
  - Racial and ethnic minorities;
The paucity of affordable long-term housing spaces as well as temporary shelters in minority and indigenous communities, in rural areas, and for women with children, are particularly acute concerns. In spite of the fact that domestic violence is a key structural driver of homelessness, advocates generally report that available space falls far short of demand. For instance, U.S. and Australian advocates note that in some places, women seeking shelters are turned away. Advocates working in Australia’s Aboriginal and Torres Strait Islander community also note a lack of adequate shelter space. Some note that appropriate space for women with children is at a particular premium. Furthermore, many Australian advocates state that even when beds are available, shelters may be unable to provide culturally-appropriate service for women from cultural, linguistic or national minority groups. They note that Muslim women face particular challenges accessing such services. Canadian advocates also indicate that access to emergency shelters varies widely, with spots inadequate to meet demand and with acute shortages in underserved communities (e.g., Aboriginal, women with disabilities, immigrant, refugee, trafficked). They further raise concerns that very few safe shelters are available and that long-term housing options are available for women fleeing violence are virtually non-existent. They also note some good practices. For instance, one program gives women leaving abusive partners special priority on wait lists for subsidized housing while another in British Columbia provides housing program for women who are “street-entrenched”. Useful approaches in the United States provide a range of services, including counseling, support, job-seeking assistance and financial literacy, at shelters, however demand exceeds availability for all types of shelter.

In New Zealand, advocates working primarily with migrant and immigrant women report that their refuges are always full and that they are forced to spend money on hotels because the existing space is inadequate. Additionally, they report that the available spaces are especially inadequate for young women and that the government provides very limited resources for addressing underage or forced marriage nor for the housing needs of young women attempted to flee such situations.

In the wake of the 2011 earthquake in Christchurch, New Zealand’s second largest city, advocates note a dramatic increase in women seeking services to deal with family and sexual violence and a clear shortage of refuge space. They indicate that fear of homelessness is preventing women from leaving violent partners and that in the wake of the earthquake, the average stay in safe houses has increased significantly, from three weeks to three months.

Advocates report that police and court officials often exhibit prejudicial treatment of victims/victims/survivors from minority communities.

Certain communities are made more vulnerable to gender violence because of a lack of legal protections for their group (e.g., immigrants, lesbians, trans-women, etc.).

Advocates report that services for women with complex needs are often unavailable (physical issues, psychological distress, alcohol abuse, etc.).

Advocates report inadequate shelter space. They also report particular access barriers for victims/survivors with children, especially for women who have teen boys, and for male victims/survivors who have kids.

Advocates report all types of services are generally underfunded.

In all four countries, advocates report myriad services to address all aspects of gender violence, yet they also lament that access to these services varies dramatically across jurisdictions. Advocates from all four countries are unanimous in saying that access to and quality of services received depends on many things, including, ability to speak English, where a victim/survivor lives, the race and/or ethnicity of victim/survivor, financial resources, visa status, access to health insurance, and the sex and gender of the victim/survivor in conjunction with that of the perpetrator. Advocates in Australia are overall a bit more positive about their government’s efforts to ensure violence prevention efforts to reach all communities than are those from the other three countries, even while they point out how much more needs to be done. Advocates in the United States report such wide variability in the availability and type of services in different parts of the country, that it was hard, if not impossible, to generalize about the effectiveness of governmental response.

The provision of housing—emergency, transitional and long-term—is one of the most important components of service provision, however, advocates in all four countries point to uneven provision of these services. The paucity of affordable long-term and transitional
Advocates from all four countries note governments have not lived up to their due diligence obligations with respect to providing shelter and services for underserved victims/survivors, including those who live in rural communities. Some Canadian advocates report that financial help for transportation and childcare would help fill this gap. Australian advocates suggest that many programs fail to reach rural areas and that the rural LGBT community is extremely underserved. Some Canadian advocates note that government programs tend to ignore violence in same-sex relationships, with large; while some advocates in the United States echo concerns about the limited availability of services for LGBTQ victims/survivors of intimate partner violence, especially those in rural areas. Advocates in British Columbia, Canada, highlight as a good practice a low-barrier housing program that can provide stability to women fleeing violence. The program is particularly unusual because access is not limited to those who are physiologically female. Instead, this housing program is available to all who identify as women including male to female transsexuals and transgendered persons.

Advocates generally agree that culturally-appropriate services in immigrant, minority and indigenous communities are too few in number and are indicative of their government’s failure to do due diligence to protect from gender violence. Some advocates from the United States indicate that victims/survivors are often uncomfortable using available services because they are not culturally competent. Advocates in New Zealand’s Māori community report a lack of access to services in some areas, including waiting lists for counseling services. Advocates in all four countries generally agree that some programs exist for aboriginal, native or racial and ethnic minorities but with wide geographic variability. Furthermore, they generally agree that for these groups, culturally relevant services and knowledgeable providers is necessary for fulfilling a country’s due diligence obligations. Canadian advocates express particular concern at the lack of services to address the problem of missing/murdered Aboriginal women.

Immigrant women who are dependent on their partner face additional barriers. Australian advocates raise concerns, for example, that a woman, married to a man with permanent residence status, remains a temporary resident in Australia for two years. If the relationship ends due to violence while she is on a temporary visa, she is able to apply in her own right. In these cases, however, migrant women are not eligible for public housing and have extremely limited access to income support. Furthermore, applying for a change of visa status is prohibitively expensive for many women in this situation. Additionally, fiancée’s are not eligible to apply for permanent residence status in cases where the relationship ends due to domestic violence.

Advocates in New Zealand report that while the law allows those who are dependent on abusers for visa status to apply independently for a residence permit they experience difficulties actually obtaining the visas. The threshold for proving violence in these cases is high and women often have difficulty garnering the necessary evidence. The process, advocates report, can also take a considerable amount of time and these delays mean that immigrant women can’t access emergency support benefits and are often faced with having to return to an abuser.

Advocates in New Zealand generally report inadequate access to services for women with multiple needs like mental health or substance abuse, those living with disabilities, and for older women, young women and sex workers. In some cases, women are turned away from services (refuge, in particular) because their needs are too complex. In others, advocates report these victims/survivors dealing with inadequately trained staff and being housed in facilities that cannot address their multiple needs. Advocates further report that this lack of services exists even in cases where alcohol or drug abuse, or mental illness (e.g., depression or anxiety disorders) is the consequence of having experienced abuse. Many women in New Zealand with drug and or alcohol problems, some with children, were denied access to or told to move out of shelters. Advocates in Canada and the United States share similar concerns.

For women with disabilities, the story is much the same. Some advocates in Canada acknowledge that the government had engaged in some attempts to address violence against women with disabilities, but they suggest that these efforts are largely ineffective because the funding is “miniscule”. Australian advocates tell a similar story, expressing concern that attention to violence against women with disabilities has been consistently too limited. Advocates in New Zealand indicate that the limited and generally expensive public transit system in the country, combined with inadequate shelter space and limited service provision for women with disabilities is a serious problem.

Advocates in all four countries indicate that services for male victims/survivors and female abusers are wholly inadequate. Advocates working with Māori people’s in New Zealand, make particular note of the lack of services for male victims/survivors. A coalition of NGO service providers and advocates in the United States provides services to LGBT victims/survivors, including gay men, in the communities in which those organizations are located. Services for these victims/survivors are non-existent in many parts of the country. Even where some services are available, need, especially for shelter beds, outpace availability.
THEMES – Protection orders (civil)

- Civil protection orders are available in all four countries.
- Access to protection orders is limited by a number of factors:
  - Legal advocates are unevenly available to help victims/survivors/navigate the system;
  - Inadequate and/or prejudicial police response;
  - Court delays.
- Advocates reported concern about the non-enforcement of protection orders.
- Advocates indicate concern about dual arrest policies and disagree about whether mandatory arrest policies are positive.

Civil protection orders are available in all four countries. Their use and enforcement, however, varies widely between and within countries. Advocates express unanimity about the importance of protection orders as an available option for protecting against gender violence and as such see their effective use and enforcement as critical to state compliance with international human rights obligations to protect from gender violence. Although this tool is available in all four countries, advocates express concern about court delays in getting some orders issued, inadequate police response to breaches of protection orders, issuance of orders of protection against those who actually are victims, and concern that bias of law enforcement officials’ effects and limits their use.

Due diligence to protect from gender violence requires access to legal services, especially with regard to protection orders and family court or custody matters. Each of the four countries provide some access to legal services for those who cannot afford them. In civil cases, however, access is generally restricted by tough eligibility criterion and this can limit the ability of victims/victims/survivors’ attempts to use orders of protection. In New Zealand, for instance, advocates lament the move to giving legal aid as a loan instead of a grant and the extremely narrow criterion for eligibility for aid. Advocates express strong concern that women who do not qualify for legal assistance often fail to get proper representation. They note that means-testing is especially problematic in cases of domestic violence since a victim/survivor may not have access to the family’s money. On paper she may appear to be able to afford private legal counsel, but in practice be unable to do so because the abuser’s behavior limits the accessibility of funds.

Advocates from Australia note that protection orders are available, but inappropriate and dangerous court delays sometime constrain the timeliness of access. They also report that responses to breaches of protection orders are uneven. Some advocates report, for example, that police in Victoria respond inconsistently to breaches. Furthermore, they express concern that some police minimize the security risk posed by breaches, deeming some “technical” and not serious, or framing the woman as having caused the breach. They also report poor coordination between prosecutors and other agencies (e.g., child protection services and medical officers) and these gaps often have the impact of re-victimizing victims/survivors.

In Australia and New Zealand a police officer can initiate a protection order, but the extent to which this is done varies tremendously and the reasons for the variation are more about habit and biases than about law. In both countries, some advocates express concern about the limited numbers of protection orders issued, with advocates in New Zealand expressing concern that the number issued has decreased since 1995 when the rates of reported abuse have increased.

Advocates express strong concern that all four governments fail to realize their due diligence obligations with regard to orders of protection because they are not enforced to the fullest extent possible. They report that rural women face particular challenges to having these orders enforced and that discriminatory attitudes toward native, aboriginal, and racial and ethnic minorities contributes to weak enforcement in these communities.

Although advocates in all four countries, discuss the state’s failure to fully act with due diligence to protect from gender violence, some advocates in each country report concerns about over-policing. For instance, Australian advocates report cases where police charge women with aiding and abetting the breach of a protection order and they also note support for the states that have stopped police from doing so. They also report that mandatory arrest laws and police bias against immigrants and racial and ethnic minorities can often be manipulated by abusers. They report cases where police responding to a woman’s call for help, arrive on the scene, and the abuser requests an order of protection against his wife and the police fail to explain to her what is happening.

Advocates mention additional practices that some found favorable, though opinions vary. For example, some Canadian advocates favor mandatory removal of the offender from the home, though some in the United States raise concerns that such a policy will deter reporting by women who don’t want their partner to leave. Advocates in the United States praise the practice of including economic support provisions in protection orders. For example, they urge inclusion of language, for example, ordering child
support, maintenance rent or mortgage payments, in ex-parte and permanent protection orders.

**THEMES -- Training**

- Referral sources (e.g., health care, police, teachers, etc.) must receive adequate training to screen and to deal with situations in culturally sensitive fashion.

- Advocates report that training of health care workers, police, judiciary, school official is uneven and often inadequate.

- Officials and anti-violence service providers lack the training and expertise to appropriately deal with victims/victims/survivors from minority communities (LGBT, disability, racial and ethnic minorities, immigrant, native, aboriginal).

Fulfilling due diligence obligations to protect people from gender violence requires that all those who deal with victims/victims/survivors/perpetrators have knowledge about how to be most effective. So doing requires operating in a culturally sensitive fashion as international obligations to protect from gender violence are explicit about reaching all groups of women. Working in a culturally appropriate manner is necessary to ensure that interactions with service providers (health care, social work, anti-violence advocates) and law enforcement officials (police, judiciary, immigration) empower victims/survivors rather than re-traumatizing them. Accordingly, victims/survivors in the communities targeted by the training should be an integral part of planning and developing any training program, and their time and expertise should be recognized and rewarded.

Advocates in all four countries report a patchwork of training efforts to address gender violence and violence against women. As is true with the general provision of services, they indicate significant unevenness in the administration and quality of these training efforts. Importantly, they note that meeting due diligence obligations requires consistent, on-going training and assessment so as to continually be able to meet needs.

While advocates in these four countries point to various training efforts, they generally report that training efforts are inadequately comprehensive and that particular gaps exist with regard to training to address violence in aboriginal, native, immigrant, disability, racial and ethnic minority, and LGBT communities. They note that training of judges and court staff is particularly important for ensuring that victims/survivors of violence receive justice and are not re-victimized in the process of seeking justice.

### 3. DUE DILIGENCE PRINCIPLE “P3”: PROSECUTION AND INVESTIGATION

**Investigation and prosecution** are actions taken by the Government when it knows of VAW incidences. It allows victims/victims/survivors to take steps to try to stop VAW without fear of repercussions and as such is a key part of a government’s due diligence obligations.

**THEMES -- Policing Practices**

- Laws authorizing arrest, investigation and prosecution are a start, but alone are not enough.

- With shift in resources comes a risk of over-criminalization, with harmful collateral consequences, especially in minority communities.

Advocates report issues associated with any form of mandatory intervention (e.g., reporting, arrest, removal) and have mixed views about their value.

Advocates raised concerns about the impact of prosecution and investigation on child custody; they were concerned both about the risk that criminal investigations of abuse could jeopardize victims/survivors’ custody of their children, and that custody wasn’t adequately taken into account in family law proceedings.

Law enforcement officials must be trained, but the training has to be done by those who really understand the issues, and who are schooled in the data and in cultural competence.

Advocates report issues both with over- and under-policing. For example, each country in the region has
laws that authorize arrest for domestic violence and other forms of gender violence. But in each country, to different degrees and with somewhat different nuances, advocates report uneven enforcement, failure to investigate in some cases, and dual arrests (i.e., arrests of victims as well as perpetrators) and over-policing in others. Concerns about over-policing are particularly acute in communities of color and underserved communities. In all countries, advocates indicate that reporting to police may increase victims/survivors’ vulnerability, e.g., to the risk of violence by intimate partners, to the risk of deportation (if undocumented), or to being arrested themselves.

Advocates have mixed views about mandatory arrest policies. While they want law enforcement to take complaints of abuse seriously, they worry about unintended consequences. In addition to dual arrests, concerns include the risk of reports to child protection authorities, which may result in removal of victims/survivors’ children. Victims/survivors also may not want to be separated from their partners and may not want to see them in jail.

Advocates in all four countries report a concern that mandatory arrest laws will lead to dual arrests. Immigrant women in particular are at risk. Many advocates support primary aggressor policies rather than mandatory responses. Australian advocates report prejudice by police, in particular, in response to requests for assistance in cases of same-sex domestic violence and that the database used by the New South Wales police does not record when same-sex couples are involved in intimate partner violence. On the other hand, they report that decriminalizing prostitution has helped increase the likelihood that sex workers will report violence. Advocates also report concerns about other mandatory policies, such as mandatory reporting by health professionals. In New Zealand, at the same time that advocates are concerned about over-responsiveness to calls by victims/survivors, police define many cases as “non-offence” investigations.

Canadian advocates take varied positions with respect to police intervention. Some urge increased police involvement, for example, through quick enforcement of protection orders and mandated referrals to victim services. They seek expanded law enforcement follow up on breaches of protection orders and abject to practices in which police release the offender on bail. Some advocates favor police authority to lay charges of assault even if the individual is afraid or reluctant. On the other hand, other advocates recommend primary aggressor policies instead of dual charges.

Similarly, in the United States, some advocates favor early victim engagement with police and specialized domestic violence units. While some advocates report that police have stepped up enforcement of no contact orders, others remain concerned about dual arrest and of victims, particularly women of color, undocumented immigrants and LGBT victims/survivors.

THEMES – Prosecution Practices

- A major issue is how prosecutors address mandatory prosecution and withdrawal of claims. Advocates are divided about whether they favor “no-drop” policies.
- Advocates raised concerns that mandatory reporting laws disproportionately, and negatively, impact victims/survivors from marginalized communities, including, e.g., Aboriginal women.
- Advocates generally favor policies and practices that reduce the number of times victims are required to appear in court, and those that support victims/survivors’ ability to safely give testimony.
- Advocates generally favor multi-agency facilities in which prosecutors share facilities with other services providers.
- Advocates raised concerns about the intersection of prosecution and child protection, i.e., that women risk losing their children if they proceed with prosecution.
- Advocates report particular problems with and barriers to prosecution of sexual assault.

As with mandatory police responses, advocates in all four countries disagree over whether no-drop policies are a good thing. Some Canadian advocates say prosecution shouldn’t depend on victim testimony; one supports mandatory charges for perpetrators who offend against the disabled and another supports “no drop” if that is what victim wants. In British Columbia, advocates critique the relaxation of pro-charging policies and the increased use of Alternative Measures, such as restorative justice programs or other community accountability approaches. At the same time, others report concerns about the increase of dual prosecutions, and support primary aggressor policies instead of mandatory responses.

In New Zealand, advocates raise concerns that complainants face harsh treatment through the prosecution process and are dissuaded from going ahead and from seeking help. They report long delays in court hearings. They are concerned about judicial decisions and practices that put women at risk, particularly with respect to keeping custody of their children.\(^{245}\)

\(^{245}\) See section below on impact on children.
Advocates report concerns about prosecutor bias against those from marginalized communities. For example, Australian and New Zealand advocates raised the issue of prejudice against aboriginal women. Advocates in the United States raise concerns that police and prosecutors do not take complaints of domestic and sexual violence seriously when they are made by lesbian, gay, bisexual, transgendered and queer victims/survivors, as well as sex workers, immigrant women and Native Women. Canadian advocates raise similar issues, particularly with respect to Aboriginal and immigrant women.

Advocates applaud reforms that improve trial practices and procedures. For example, Canadian advocates praised rape shield laws. They also praised a Canadian Supreme Court decision ruling that women with mental disabilities could give testimony without extra tests of their level of understanding. They praised policies allowing testimony and cross-examination through closed circuit television, and other procedures to prevent disclosure of victims' addresses and medical records. Some Australian advocates applaud victim impact statements because they help move victims/survivors from a passive to active role. United States' advocates similarly favor practices that prioritize effective and quick evidence collection, that reduce the number of times a victim must tell her story, go to court, testify, and that keep victim safety at the forefront. Advocates identified counseling and support during prosecution as important.

In Australia and the United States, advocates reported such wide variation in practices and policies that it would be difficult to respond accurately. Those surveyed in the United States, reported that the federal Violence Against Women Act (VAWA), first enacted in 1994, improved police and prosecutors’ responses, but that funding is still inadequate and practices are inconsistent. Despite three previous bipartisan reauthorizations, recent legislation reauthorizing VAWA funding for critical programs and amending criterion to better assist Native American, immigrant and LGBT victims/survivors, was held up by political infighting. Advocates hope the reauthorization ultimately will be approved.

Advocates reported concern that now women are getting arrested under domestic violence laws. Many support primary aggressor laws and articulated concern about the way that women who fight back end up being treated. Policies such as so-called “no-drop” policies are defined in different ways in different jurisdictions. Alone, they may not address the goal of creating a process for evidence collection and victim involvement that increases the likelihood that victims may not have to testify in court. Some identified approaches that reduce victim’s required involvement as best practices.

Advocates also identified issues with sexual assault prosecutions. For example, United States’ advocates pointed to the pervasiveness of failure to punish and lack of services for victims/survivors of sexual assault in the military. Problems persist even though the U.S. Department of Defense (“DOD”) appointed a Major General as director of the DOD Sexual Assault Prevention and Response Office.

**THEMES: Advocates identify numerous barriers to access to justice**

- For example, advocates generally report low rates of reporting and investigation. They report that victims/survivors, rather than perpetrators, may be criminalized. They report lack of accountability under pro-arrest policies.

- Investigation and prosecution is particularly problematic in marginalized communities. For example, jurisdictional requirements preclude prosecution for cases involving native or indigenous women and limit prosecution of sexual assault in the military. Laws may preclude prosecution in LGBT relationships. Lack of translation services and fear of deportation pose barriers for immigrant women. Women may not know about availability of immigration remedies. Lack of services precludes investigation for women in rural areas. Disproportionate punishment and sentencing of women of color deter women from proceeding with prosecutions.

- Advocates report biased treatment by law enforcement and court officials of women from marginalized or underserved communities.

- Some advocates laud approaches that prohibit customary and religious laws and practices that don’t take abuse seriously; by contrast, in some cases, religious tribunals offer more flexibility and alternative approaches to seeking justice.

- Advocates raised concerns about prosecution of women who fight back in self-defense.

Advocates in all four countries report low rates of reporting, charging and prosecution of sexual assault and domestic violence crimes. In Canada, most incidents of violence are not reported and when reported, rarely lead to adequate investigation, charges, conviction or appropriate sentence; instead, some advocates reported, the system criminalizes women who experience violence. Advocates across the board reported barriers to justice for minority women and those from underserved and marginalized communities. For example, advocates in Australia report rural women have inadequate access to forensic exams.
Advocates in Australia reported prejudiced treatment of minority, aboriginal women by police and judiciary, and by court officials. New Zealand advocates report that immigrant women face particular challenges, for example, with inadequate access to translation. They also report discrimination against trans people in domestic violence and custody cases. Advocates in both countries reported concerns that immigration provisions and practices were inadequate to ensuring that migrant women victims/survivors do not remain dependent on their abusers for visas to remain in the country.

Advocates in Canada reported that aboriginal people often are victimized financially after receiving compensation for surviving residential school abuse; they remain particularly concerned that hundreds of cases of aboriginal women who disappeared have not yet been brought to justice. Advocates supported allowing Canadian victims to bring governments that tortured and raped women to account in Canadian courts. Canadian advocates further expressed concerns about the impact on marginalized communities. For example, newcomers fear going to the police due to fear that doing so will harm immigration claims. They report that criminal laws disproportionately affect African Canadians; for example, the burden of mandatory minimum sentencing disproportionately is born by Black people, and in particular Black women, who are 8 times more likely than white women to be charged, convicted, and sentenced. In British Columbia, advocates report the failure of the justice system to respond in timely manner; they also critique a lack of interpreters and services in immigrant women’s languages.

Advocates also express concern about a lack of police accountability. Canadian advocates raised the issue of accountability under pro-arrest policies; United States advocates similarly expressed concern that legal actors such as the police be held accountable for dealing with gender violence issues.

In the United States, jurisdictional issues are barriers for native women. The relationship of the parties may preclude access, for example, for LGBTQ victims and for native women abused by non-native men. Victims who fight back in self-defense also face challenges. Although VAWA and other federal laws afford immigrant victims some avenues to gaining legal status without having to rely on an abuser, victims may not know about those protections. Women in the military who have been subjected to sexual assault face multiple barriers to the justice system and lack needed services.

New Zealand advocates report financial barriers to access to justice since the criteria for receipt of legal aid has generally tightened and it is now approved primarily as a loan not a grant.

Canadian advocates had mixed views about dual systems of justice. Some advocates supported prohibiting Shari’a laws and all religious and customary law; they opposed religious arbitration in situations of family law and family violence. On the other hand, other advocates noted that Native American tribal councils allow victims more opportunity for input. United States advocates also expressed some concern that religious and customary responses may preclude justice for victims/survivors.

With respect to sexual assault, United States advocates expressed concerns that sexual assault is still largely unreported, although rates of reporting and appropriate responses are increasing. There is wide variation across states in what is considered a crime.

**THEMES: Custody and visitation**

- Advocates raised concerns about risks victims/survivors face in custody and visitation proceedings.

- Statutory schemes should require that domestic violence be taken into account in custody and visitation decisions. Some raised concerns about the lack of recognition of the dynamics of abuse in custody determinations, e.g., abusive fathers use the custody system to perpetuate abuse, and custody determinations may put the woman and her children at additional risk.

- Legal trends favoring joint custody pose challenges for victims/survivors who fear that custody arrangements will expose them and their children to further abuse. Women may be discouraged from raising problems with abuse in custody hearings.

Overall, advocates expressed concern that domestic violence was not adequately taken into account in custody proceedings and that abuse instead was taken into account to the detriment of the non-abusive mother. For example, in Australia, advocates expressed concern that a 2006 Family Law Amendment created a problematic “pro-contact” climate for women and children affected by domestic violence. They were concerned that custody arrangements don’t adequately prioritize women’s safety and that family laws were used by abusers to bully and intimidate their partners. United States advocates report that abusive fathers use the custody process to perpetrate abuse and that battered mothers face ongoing challenges in retaining custody of their children.

Canadian advocates critiqued laws that do not require that domestic violence convictions be taken into account in child custody or visitation proceedings, leading to uneven results. New Zealand
advocates also reported that family courts prioritized male parenting over women’s safety. In British Columbia, women have been discouraged from mentioning their spouse’s violence during custody and access hearings.

Advocates in all four countries reported concerns about how the child protection system handles allegations of abuse. For example, Australian advocates raised concerns that claims by women that abusive partners harmed their children weren’t adequately investigated and often were unsubstantiated as a result. Advocates in all countries similarly raised concerns that “failure to protect” laws were used against non-abusive mothers and resulted in women losing custody of their children as a result an abusive partner’s conduct.

THEMES: Legal services and translation

- Legal services can improve victims/survivors’ experience with the justice system, however, there are too few lawyers available and barriers, particularly financial barriers, preclude access.
- Translation services often are not available or are too expensive for victims/survivors or agencies assisting them realistically to access; translators may have connections to victim’s family (and may therefore be unsafe).
- The cost of legal representation precludes access.

Advocates throughout the region report inadequate access to legal services. For example, in Canada, legal advice or referral centers have limiting criterion so most women are not eligible for legal aid and those who are don’t get proper representation. In New Zealand, advocates expressed serious concern about policies that make legal aid a loan. They also reported that access to legal services is limited by lack of regard for cultural practices. In the United States, advocates report that there are too few attorneys available, especially for family law matters.

Immigrant women face particular challenges. For example, in New Zealand, legal aid had become increasingly difficult to access and the evidentiary requirements for women on dependent visas are often too steep to meet. Advocates also report a dearth of lawyers with adequate training to deal with the ways that gender violence interacts with community norms and practices.

A lack of adequate translation services is problematic throughout. For example, in Australia, Translation services at shelters are very limited and the cost to agencies is prohibitive, with inadequate funding available for translation services. Translators sometime have connections to the victim’s family. New Zealand advocates also report inadequate translation services for immigrant women.

THEMES: Specialized courts

- Specialized courts generally are viewed favorably. These include specialized domestic violence courts, courts that integrate criminal, civil and family court proceedings; and mobile courts that can travel to rural communities.
- Careful evaluation is needed; while advocates report that these courts can improve coordination and increase access to services, they also may contribute to stigmatization of victims/survivors, for example, if judges and other court personnel are not thoroughly trained in the dynamics of abuse.

Advocates generally have cautious praise for innovative practices such as specialized courts, though they must be constantly evaluated and retooled to take into account unanticipated consequences. For example, in New Zealand, family violence courts are being threatened by lack of funding. Some also raise concerns that these courts victimize women. Other approaches, such as specialist judges who have been trained, receive favorable reviews. Canadian advocates praise specialized justice processes for domestic violence, since traditional courts and justice system are not necessarily knowledgeable about VAW. In the United States, some advocates find that specialized courts can be useful but also can be problematic; advocates from the state of Texas report great variability.

THEMES: Training of police, law enforcement and judicial officers, including judges, is key to effective investigation and prosecution

- Training must be culturally competent and conducted by those with experience in working with victims/survivors of abuse.
- Training must be adequately funded.

Advocates stress the importance of culturally competent and adequately funded training. Advocates in Canada seek better training of judges on issues of gender violence. New Zealand advocates note that the government has taken some steps but that they are not always adequate. Specialized family violence police teams require sufficient training to work well, and sufficient training isn’t always provided. Promising approaches include a pilot training conducted by the Ministry of Justice for family court staff. Other advocates recommend training for all lawyers. United States advocates echo
the need for specialized training and technical assistance for the judiciary, law enforcement, court officials, corrections, and child protection workers. Training of law enforcement, and coordinated social service and law enforcement teams have gotten better results than others.

THEMES: Investigation and prosecution is most effective when support is provided for the victim/survivor throughout the investigation/prosecution process

- Support includes financial assistance where needed and provision of victim advocates who can explain the process.
- The system should ensure coordination with immigration authorities for undocumented victims/survivors.
- Advocates report that support services for victim/survivor are unevenly provided.

Advocates in all countries stress the importance of programs and practices that afford victims/survivors support through the justice system process. For example, in Victoria, Australia, the Office of Public Prosecutions recognizes the specific challenges for victims of sexual assault who are required to give evidence in court, and allows for a number of alternatives, e.g., giving evidence from another location by closed-circuit television, allowing a support person to be present when giving evidence, closing the court to the public, and/or using screens to make sure the accused person is not visible. The New Zealand Law Commission recommends having an independent advisor who assists complainants in sexual assault cases before and during the trial process. Others commend programs, particularly for Māori women, that support an effective relationship between sexual violence services, police and health services.

Advocates report inadequate concern for marginalized women. For example, New Zealand advocates report inadequate support for immigrant women; abusers are able to block victims/survivors’ access to a court-based support person.

Advocates also expressed particular concern for victims/survivors who were mothers. For example, Canadian advocates sought housing, counseling and other social services. In the United States, advocates valued funding for victim assistance programs provided by federal Crime Victim Compensation Funds.

THEMES: Alternative dispute processes pose both a problem and an opportunity

- Some advocates raised concerns that trends favoring mediation over traditional litigation threaten women’s ability to obtain fair and safe results, especially in divorce proceedings.
- On the other hand, community-based dispute resolution programs and practices can provide valuable alternatives to police and prosecution.

Mediation, restorative justice and other alternative approaches to adjudicating gender violence issues remain sources of opportunity and concern. The New Zealand Law Commission recommends the development of an alternative to traditional trial and investigation process. Once selected, victims would work with specialists to develop a process tailored to ensuring safety and meeting their needs. New Zealand advocates critique a push to use mediation in divorce proceedings creates problems for domestic violence victims. Canadian advocates similarly express concerns about the increased use of mediation and other alternative responses instead of prosecution. In the United States, much controversy surrounds the utility of mediation and other alternative dispute approaches.
Punishment is something negative imposed on the perpetrator of gender violence as a consequence of his/her actions. It should be commensurate with the crime, take into account aggravating factors, and consistently applied.

**THEMES—Punishment of perpetrators**

- Advocates report inconsistent sentencing and often perceive that punishment meted out is inadequate given the crime. Advocates suggest that these inconsistencies impact all communities (majority and minority communities).
- Advocates are interested in supporting alternative approaches to traditional criminal justice punishment systems.

A state’s due diligence obligations include punishing perpetrators of gender violence in a way that is consistently appropriate to the crime committed. Advocates from all four countries agree that acting with due diligence requires sentences that hold offenders accountable, that do not blame the victim, and that are significant enough that they act as a deterrent. They also strongly agree, however, that sentencing is often inconsistent and that these inconsistencies make it difficult to generalize about sentencing practices. However, they frequently note that it is not uncommon for sentences to be inadequate and that a high proportion of cases in all four countries fail to make it all the way through the system. In these cases perpetrators often escape any consequence whatsoever. For instance, New Zealand advocates state that of the fewer than ten percent of sexual violence offenses reported to the police, a mere thirteen percent result in conviction. They point to a range of contributing factors including problematic judicial decisions that result in a lack of or inadequate punishment. At the same time, increased criminal justice responsiveness has resulted in arrest and incarceration of (often female) victims, including cases in which they have acted in self defense.

Advocates routinely state that official assessments of ‘risk’ do not always reflect the realities of gender violence in practice. Determination of how to respond to requests to issue protection orders, for instance, requires that court officials assess the risk the accused man poses to the woman filing for the order. Australian advocates note that law enforcement officials (police and court personnel) frequently inaccurately assess risk. They report situations in which requested orders were denied in spite of the accused man’s history of committing gender violence. They also note that the incorrect assessment of risk interacts with the racial and ethnic prejudice of law enforcement in a way that makes the outcome of protection order hearings particularly fraught for immigrant women. Once denied an intervention order, an immigrant woman is likely to have trouble gaining permanent residence since immigration officials will request the court order as evidence of abuse. Some advocates from New Zealand also make a similar point about bail hearings that take inadequate account of the perpetrator’s previous victim’s safety. Some advocates in the United States indicate that the Violence Against Women Act (VAWA) has increased coordination and responsiveness, but that marginalized groups in particular still have a difficult time getting support.

In the small proportion of cases that are successfully prosecuted, the system invests much more in incarceration than in rehabilitation. In part, advocates note that this is because of limited evidence about what interventions actually stop men’s abuse. They suggest that acting with due diligence to address gender violence requires significant investment in treatment programs for perpetrators where the content thereof is research-based.

Some Canadian advocates suggest that giving stiffer punishment for first time offenders sends a clear message that violence against women is a serious offense. Other good practices Canadian advocates report are the enforcement of peace bonds and restraining orders, and the denial of access to firearms to those who have been involved in acts or threats of gender violence. Other advocates praise swift case processing and streamlining of case management, which specialized domestic violence courts may promote. Some advocates in the United States identify a VAWA funded approach in Dallas as a good practice. It allows the court to create a specialized probation docket in order to more closely monitor defendants as they progress on probation. Regular and careful check-ins with the defendant helps the court identify problems as they develop, maintain contact with the victim, and generally make sure the offender knows the court is watching.
THEME – Alternatives to Incarceration

- Advocates stress the importance of research on effective interventions and on alternatives to criminal justice responses.

Advocates report mixed sentiment about programs that offer alternatives to incarceration but indicate that due diligence to address gender violence necessitates research-based interventions. They note that since there is limited evidence of the deterrence value of incarceration, alternatives present important avenues for further research. Advocates strongly express the need for additional research and the desire that this information be used to feed back into program development. Some advocates in the United States suggest, for example, that community accountability models that involve community members in developing policy responses, are particularly promising. They also state that it is important to understand when and how probation may be a better option than imprisonment.

Yet, advocates are also wary of alternatives to incarceration that do not prioritize victims/survivors’ safety. For instance, some Canadian advocates suggest that if a perpetrator is given community service in lieu of incarceration, they should be required to wear tracking devices. Some Australian advocates note a need to develop alternatives to incarceration that would be used at earlier stages in the cycle of abuse than prison. They particularly highlight this need in remote communities.

Some advocates favor exploration of restorative justice models, particularly when those models are grounded in the victims/survivors’ culture and community. For example, Canadian advocates praise some aboriginal traditions and mention traditions such as “shunning,” that are drawn from religious practices. Others look to restorative justice programs as a way to avoid problems inherent in the current criminal justice system, which pits the offender against society and gives the victim no real role.

THEMES – Batterers’ programs

- Advocates identify batterers’ programs as underfunded.

Advocates report unfortunately restrictive access to batterers’ programs (e.g., only if court-mandated, no access for female perpetrators).

- Advocates suggest that the effectiveness is not known of many of the programs designed for batterers.

Programs that work with batterers are a key aspect of state responsibility to address gender violence.

Research-based batterers’ programs are necessary to reduce high recidivism rates and to ensure victims/survivors’ safety. Advocates in all four countries recognize the need for batterers’ programs but are skeptical about their effectiveness. They simultaneously identify examples where such programs provide more of a band-aid than a solution to the problem. They also note that the efficacy of these programs is under-studied and that programming must be evidence-based. These efforts are also consistently underfunded, they indicate.

Some Canadian advocates express positive views of Partner Assault Response (PAR) programs. These programs, offered by community-based agencies, include specialized counseling and educational services for people who have assaulted their partners. The program aims to enhance victim safety and hold offenders accountable for their behavior. Offenders are ordered to attend the PAR program by the court. Other Canadian advocates say that programs like these do not work. Those advocates critique the programs as geared towards anger management rather than systemic change. Since gender-based violence is rooted in sexism and misogyny, programs treating abuse as “mental illness” are not up to the task.

In Australia, advocates note that Magistrates in the civil intervention order system in the state of Victoria sometimes make mandatory referrals of perpetrators to men’s behavior change programs. Yet, these programs, they also report, are insufficiently funded, unable to meet demand, and once in the program, perpetrators’ compliance is poorly monitored.

Similarly advocates in the United States debate the effectiveness of the court-mandated batterers’ programs, which have become common. Advocates report some promising results with programs that incorporate anti-VAW messages into work with fathers who have lost relationships with their children. Some also maintain that programs focused on anger management are inappropriate as they do not generally require batterer accountability.

Advocates in New Zealand report widespread funding shortfalls for community treatment programs for perpetrators. They also note that many of the treatment programs are small and are not accessible to all. In some cases, these programs are only available free to men who are court-mandated to participate. This system, they highlight, further perpetuates violence by failing to offer substantial treatment and intervention options to all men seeking them. They also indicate a lack of access to culturally appropriate treatment program and programs that reach into Māori communities. Advocates also express concern that women who want to attend “stop violence” programs, have an even more difficult time finding appropriate options free of charge.
Redress is any form of compensation or reparations available to a victim/survivor of VAW. This could take different forms, from monetary compensation and apology to symbolic reparations.

THEME -- Restitution and victim compensation

- Restitution generally is available but often not sought by prosecutors.
- Victim Compensation Funds exist in all four countries. Their effectiveness is limited by lack of publicity, restrictive eligibility requirements, and limited types and amounts of recovery.

Fulfilling international human rights obligations to address gender violence includes the provision of restitution or compensation for victims/victims/survivors. Restitution is important for compensating the victim/survivor for out of pocket expenses incurred as a result of the abuse, for redressing pain and suffering associated with the abuse, and for helping in the healing process. Restitution and compensation is available in all four countries but is not always awarded. For example, in Australia, Victim Compensation programs exist, but eligibility and awards vary greatly across jurisdictions. Compensation is hard to obtain and is inadequate when available. Some jurisdictions maintain burdensome eligibility requirements, such as, requiring the victim to provide evidence of injury, to have reported the crime to the police, and, in some cases, demonstrate that the victim’s conduct did not contribute to the crime. Some jurisdictions preclude awards to victims/survivors who were intoxicated at the time of the offense. Eligibility is tied to the criminal justice system; awards may be unavailable for verbal, emotional or financial abuse. Some advocates recommend defining domestic violence or sexual assault as an “injury” for which victims/survivors may recover, rather than tying eligibility to the criminal code. Some advocates note that there is a move to recover debts from perpetrators, but no research on the impact that has on victims.

New Zealand’s Accident Compensation Corporation provides sexual violence victims/survivors with funding for up to 16 weeks of counseling, but recent cutbacks threaten this access. In Canada, the Criminal Injuries Compensation Board provides redress, and affords an opportunity for victims to have their voices heard, but there is no guarantee of the amount one can recover. Advocates raised concerns that the program only covers limited expenses. Some advocates urge mandatory referrals to, and dissemination of information about, victim compensation programs. Other advocates voice concern about whether the programs benefit women, especially women with disabilities.

In the United States, victim compensation is available in every state and is funded by defendant fines and fees rather than government sources, but programs are under-publicized and restrictive eligibility requirements limit access. Restitution is available, but often is not sought by prosecutors.

THEME -- Civil suits

- Civil suits against the perpetrator also are available in all four countries, however they are expensive, may re-traumatize victims/survivors, and may not lead to financial recovery.

In Canada, civil suits can be brought but they are expensive and victims may experience the process as unsupportive. Each province’s Human Rights Tribunal has the authority to award compensation for acts of gender-based violence in employment, but its jurisdiction is limited. Advocates think both monetary compensation and criminal punishment are good practices.

Although civil suits are available to victims/survivors in the United States, for example, for tort claims against an abuser, most do not sue. Advocates would like victims to be able to seek accountability from government actors for failures to protect, but current laws have limited reach. Compensation in the form of child support or other financial support may be available in connection with divorce cases. That said, victims/survivors may be able to bring suits against employers or landlords if they are subjected to adverse actions such as termination from a job or eviction from their home due to their experience with abuse. Compensatory damages in civil suits may be limited; for example, pain and suffering may be capped, loss of educational/employment opportunities may be rejected as too speculative. This contrasts with international views of damages, which
often encompass physical and mental harm as well as lost opportunity. In addition, defendants may be judgment-proof.

**THEME – Alternative approaches to redress**

- Advocates had limited commentary about but expressed an interest in alternative approaches to redress, such as truth and reconciliation or other approaches to truth telling and apology.

- Advocates expressed the need for alternative approaches to address medical and psychological care.

- Advocates emphasized the need for strategies to promote victims/survivors’ economic independence.

Some advocates endorse restorative justice approaches while others express concern. For example, some Australian advocates applaud victim impact statements because they help move victims/survivors from a passive to active role. Some express praise for restorative justice programs, for example, some praise the use of those programs in Aboriginal communities, but raise concern that power dynamics operative in gender violence cases are largely anathema to the goals of restorative justice approaches. New Zealand is engaged in a two-year research project evaluating effective interventions for victims/survivors.

In Canada, some advocates stated that truth and reconciliation hearings can include compensation (though minimal and inaccessible) and apology. They reiterate that victims/survivors need ongoing support to heal from trauma and strive for culture shifts that endorse a zero tolerance policy towards domestic violence.

United States’ advocates identify mental health supports, rights to keep children, and the right to housing as most important. Advocates in all four countries underscore the importance of economic independence, including help finding employment and childcare. Some advocates in the United States support increasing the use of asset forfeiture and public shaming for pedophiles; they advocate using a Nordic model of addressing sex trafficking that legalizes selling but criminalizes and heightens penalties for buyers. Advocates support investing in healing services for women and training law enforcement and judicial systems workers. Other advocates emphasize that victims need the truth to be told to heal, and support focusing on advancing cultural norms of gender equality.
Guidelines are critical to facilitate information analyses and increase accountability. They measure progress and achievements; improve decision-making for the management of ongoing programmes; achieve consistency between activities, outputs, outcomes and impacts; and identify the need for corrective or remedial action.

**A. PREVENTION**

Prevention includes government measures to thwart the occurrence of VAW. Good prevention programmes provide awareness of VAW and of information services and legal protection available post the incident. They also target underlying risk and causes of VAW and often include training and education campaigns.

1. **Targeting Underlying Causes of VAW**

   Effective preventive strategies address underlying causes of VAW and seek to eliminate tolerance and acceptance of VAW while incorporating a human rights framework, exposing the relationship between gender inequality and VAW.

2. **Transforming Society: Changing Mindsets and Modifying Behaviour**

   Effective preventive measures not only specifically target VAW but also aim to transform social perceptions, attitudes and behaviours that cause, support and tolerate VAW. They must be aimed at changing mindsets and modifying behaviour to reject VAW, its justifications and excuses. These are embedded in gender inequality, gender discrimination and negative socio-cultural-religious perceptions of women that reinforce hegemonic notions of masculinity and femininity and the institutions that propagate them.

3. **Eliminating Risk Factors**

   Preventive programmes must challenge negative socio-cultural norms and those that support male authority and control over women and sanction or condone VAW. Strengthening women’s economic and legal rights and eliminating gender inequalities in access to formal wage employment and secondary education would lay concrete foundations in preventing VAW.

4. **Providing Outreach and Ending Isolation**

   The availability of a social network increases women’s autonomy and their ability to seek support and assistance to stop the violence. Outreach programmes that can end the isolation of and remove the stigma suffered by victims/survivors are required. Society must also be involved in the struggle against VAW, to imbue a sense of vigilance against and a willingness to show disapproval of the same.
5. **Broadening the Scope of VAW Programmes**

Stereotyping and gender roles are learnt from an early age. It is important that preventive programmes address different forms of VAW and target all stakeholders and beneficiaries. Success can be evaluated by verifying if governments’ preventive programmes have benefitted intended target groups.

6. **Formulating Comprehensive Laws and Constitutional Guarantees**

Enacting holistic and comprehensive legislation is critical to States assuming accountability for VAW. It is through laws that the necessary components of due diligence and implementing measures are articulated. Competent implementation and enforcement is an effective prevention strategy, particularly if perpetrators are certain that their actions will not go unpunished.

7. **Collecting Data and Designing Programmes**

Preventive programmes must be based on comprehensive, reliable data on prevalence, causes and consequences of VAW. Data collection is important for shaping VAW interventions; data can provide insights to shape prevention measures and monitor and assess prevention programmes.

8. **Incorporating Intersectionality and Providing for At-risk Groups**

VAW does not affect all women equally. Certain groups of women are more vulnerable than others or face greater challenges in accessing the State’s laws, programmes and processes.

9. **Maintaining a Sustained Strategy**

A sustained strategy is ideally institutionalized and not a seasonal response. It should involve actions across different environments that target local communities, workplaces, schools and faith institutions; working with individuals or families is also crucial. Mechanisms to monitor implementation, including qualitative surveys to ascertain the prevalence and forms of violence, could further ensure that such strategies remain current and effective. NAPs and institutional mechanisms are considered good sustained strategies.

10. **Collaborating with Women’s/Feminist Organizations**

Women’s mobilization over VAW has brought VAW out from the private sphere where the law and culture had set up justifications for State non-intervention to stop VAW. While States bear the obligation to end VAW, cutting-edge research and strategies are often undertaken by civil society experts and organizations. Collaboration between States and the women’s movement has undoubtedly strengthened and will continue to strengthen the struggle to end VAW.

**B. PROTECTION**

Protection against VAW focuses on avoiding the recurrence of further violence and ensuring that victims/survivors receive adequate and timely services. This is sometimes called secondary prevention. It includes the availability and accessibility of services such as hotlines, shelters, medico-psycho social services and protections orders. It also includes adequate training and sensitization of first responders.

1. **Ensuring Availability of and Accessibility to Coordinated Support Services**

Medical (including psychological) interventions and social support are essential in protecting victims of VAW. Coordinated and multi-sectoral support services offer women options to stop the violence; prevent its recurrence;

---

246 For example, Morocco and Azerbaijan.
understand, address and challenge the factors responsible for it; treat the trauma (mental and physical) and provide short-, medium- and long-term measures to transition out of the violent situation and re-build lives.

2. **Ensuring Availability of and Accessibility to Protection Orders**

Laws that facilitate protection or restraining orders to help women escape violence underscore their right to live free from violence. Such laws must define VAW broadly and should be applied immediately upon occurrence of VAW. Protection orders should protect victims/survivors from further violence while allowing them to continue their daily routines with as little interruption as possible, including staying in their homes (if desirable), continuing to work, taking their children to school and using vehicles.

3. **Upholding the Duties of First Responders**

On learning of any occurrence of VAW, the police, medical personnel and other first responders must act swiftly and immediately to comply with their due diligence obligation. Their ability to respond urgently and in a specific manner greatly reduces the risk of further harm to victims/survivors and inspires confidence in the system’s ability to arrest VAW.

4. **Fostering Positive Attitudes and Sensitization through Sustained Training**

It is crucial to equip first responders with skills to effectively intervene in cases of VAW. These skills include assessing risks for victims, identifying early signs of violence before it escalates and conducting coordinated risk assessment at the crime scene before adopting protective measures.

5. **Implementing a Multi-sectoral Approach and Coordinating Services**

The delivery of protection services provided by the government is enhanced through multi-sectoral approaches with coordinated responses and delivery of services. Swift action by the police, medical and social services as soon as a case of VAW is reported helps victims/survivors deal with the legal process and increases prosecution rates.

C. **PROSECUTION**

Prosecution refers to the duty of exercising criminal jurisdiction over those responsible for human rights abuses. Steps must be taken to ensure that the prosecutorial process is as non-traumatic for victims/survivors as possible. Investigation refers to the duty of undertaking effective action to establish the facts related to a VAW incident. This duty must be exercised in an effective, prompt, impartial and thorough manner.

1. **Addressing Victims’ Needs and Fears**

Effective State measures respond to VAW as a crime and a violation of human rights. Investigators and prosecutors should be able to take into account the perceptions, needs and desires of victims/survivors and the State’s need to enforce law and order, eliminate VAW and comply with its international and, where applicable, constitutional obligations to guarantee fundamental liberties.

2. **Developing Policies to Reduce Attrition**

The conversion rate from reporting VAW to conviction of perpetrators is low because of victims’ fear of repercussions and retribution; negative experiences with the legal process; negative social perceptions and bias; inefficient prosecution and unprofessional conduct. States should adopt adequate measures to address these factors without diminishing the integrity of VAW victims/survivors.
3. **Ensuring the Police Provide Positive Early Victim/Survivor Engagement**

Positive and early engagement with the police and special VAW units may encourage victims/survivors to take action to stop the violence. Speed and quality of police intervention is crucial in engendering confidence in the legal process.

4. **Establishing the Affirmative Duty to Investigate**

Investigation is critical in cases of VAW ‘as deficiencies often prevent and/or obstruct further efforts to identify, prosecute and punish those responsible’. The obligation to investigate human rights violations is one of means rather than results. States must adopt effective measures to ensure that legal remedies and procedures are accessible to victims/survivors of VAW and authorities act within a legal framework where due process guarantees, for victims and perpetrators, are respected.

5. **Establishing the Affirmative Duty to Prosecute**

   a. **Ensuring Fair Burden of Proof and Evidentiary Standards**

      The prosecutor has the right to decide on whether to proceed with prosecuting a ‘minor’ offence. Otherwise reasonable, this discretion is problematic in cases of domestic violence, which often consists of repetitive offences that may be considered ‘minor’ on their own.

   b. **Ensuring Sensitivity to Confidentiality and Privacy Issues**

      Women who decide to report violence often have to deal with harsh treatment, long delays in court hearings, and practices such as the release of identifying particulars (especially in child sexual abuse or mass rape during conflict) that are humiliating and dangerous. States must institute procedures that protect the privacy of women from public disclosure or overly harsh treatment during the investigation and prosecutorial process.

   c. **Providing Legal Aid and Support**

      Legal advice and free legal assistance are rights and not privileges afforded to those in need and victims/survivors of VAW in particular have the right to legal advice and free legal assistance.

   d. **Reducing Delay at Every Level of the Prosecutorial Process**

      Systemic delay is another primary reason for the low conviction rate in cases of VAW. States should establish measures to check delay and expedite the prosecution of such cases.

6. **Fostering Confidence in the Police and Judiciary**

Police and prosecution offices play pivotal roles in determining the outcome of formal intervention in cases of VAW. Decisions to investigate and prosecute and the manner of investigation and prosecution affect the confidence victims/survivors place in the criminal justice system, shaping their participation in its success.

7. **Establishing Specialized Prosecutors and Courts**

Conventional courts and justice systems are not necessarily knowledgeable about VAW. States should establish specialized police units, prosecutors and courts (or judges) to work exclusively (or primarily) on VAW. When staffed

---

247 IACHR, The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination, OEA/Ser.L/V/II.117, Doc. 44, 7 March 2003, para. 137. The investigation also serves other purposes, for example, to ascertain the right to truth. The IACHR has written that any victim of a violation of human rights is entitled ‘to obtain clarification of the events that violated [his or her] human rights and the corresponding responsibilities from the competent organs of the State, through the investigation and prosecution […]’. IACHR, Case of Bambos Allos v. Peru. Judgment of 14 March 2001. Series C No. 75, para. 48.

248 Rosendo-Cantú et al. v. Mexico, supra note 238, para. 175).
with trained personnel and supported by adequate funding, such units can provide a more conducive environment for women to seek legal recourse.

8. **Considering Alternative Dispute Resolution (Mediation/Conciliation)**

Mediation, restorative justice and other alternative approaches to adjudicating GBV remain sources of opportunity and concern. Mediation should not be made available for grave and serious offences or with the aim of exculpating perpetrators, such as allowing them to pay off or marry rape or abduction victims/survivors. If victims/survivors are emotionally stable, free from risks and coercion, and able to make an informed decision and mediators receive proper training, mediation can be a viable option, especially since prosecutorial processes are often long, expensive and traumatic.

9. **Ensuring that Plural Legal Systems Align with International Human Rights Norms and Standards**

Countries must ensure that customary or religious legal systems are interpreted to meet contemporary and changing dynamics, values and challenges. “[I]t is important that States strongly condemn violence against women and refrain from invoking any custom, tradition or religious consideration to avoid their obligations.”

10. **Developing a Multi-sectoral and Multi-agency Approach**

Close collaboration between specialized prosecutorial offices, the police and medical/health service providers, including trauma and VAW specialists, show increased prosecution rates.

**D. PUNISHMENT**

Punishment refers to the obligation of imposing a sanction on perpetrators as a consequence of their having committed VAW. Sanctions can be civil, criminal, administrative or ‘other’ (e.g. community or social sanctions) and at minimum, must ensure negative consequences for perpetrating VAW.

1. **Holding Perpetrators Accountable: Certainty of Punishment**

Punishment is a mechanism by which States ensure that those who commit violence face its consequences, thereby facilitating women’s realization of the right to be free from any acts of violence. Holding perpetrators accountable for VAW is fundamental to the principle of punishment: it creates a level of predictability and certainty, suggesting that perpetrators will have to answer for VAW. Failure to do so sends the message to society that VAW is both tolerated and tolerable.

2. **Ensuring Punishment is Commensurate with Offence**

Holding perpetrators accountable for VAW is fundamental to the principle of punishment as it creates a level of predictability and certainty and sends the message that VAW is not tolerated or justifiable. States must also enact laws that establish sanctions commensurate with the severity of the offence (including aggravating factors) and meet international standards.

3. **Meeting the Goals of Punishment: Preventing Recidivism, Rehabilitating Perpetrators and Deterring Others**

Punishment should prevent recidivism, rehabilitate perpetrators, prepare them for reintegration and deter others from committing similar offences. Sentences that do not meet these goals foster recidivism and a sense of impunity, normalizing VAW in our collective imagination and resulting in its re-enactment in our daily lives.

---

4. **Broadening the Available Punishment Regime beyond Incarceration, Where Appropriate**

Incarceration appears to be the most common form of punishment for all forms of VAW. Sometimes, however, it may not be the only ‘punishment’ sought or preferred by victims/survivors. Although many advocates have mixed reactions to alternatives, they generally agree that these deserve consideration. Where appropriate, States could consider laws that allow judges to impose other punishments in addition to or (more rarely) instead of incarceration, provided that the safety and security of victims/survivors can be guaranteed.

5. **Ensuring Punishment is Premised on the Principle that VAW is Not Justifiable/Excusable**

Punishment focuses on making perpetrators accountable for their actions. Due diligence in punishment focuses on perpetrator accountability and is premised on perpetrators being held responsible and, therefore, liable for their actions. States should ensure that punishment is premised on VAW not being justifiable or excusable.

**E. PROVISION OF REDRESS AND REPARATION FOR VICTIMS/SURVIVORS**

Redress and reparation imply any form of remedy or compensation made available to victims/survivors of VAW to address the harm or loss suffered by them. Reparation measures aim to eliminate or mitigate the effects of the violence committed. This could take different forms, from monetary compensation and apology to symbolic reparations.

1. **Adopting a Victim/Survivor-oriented Perspective**

Reparations must fit women’s needs. Women’s participation and perspectives can help shape, monitor and evaluate reparation schemes that best suit their living situation and needs. This process can empower victims/survivors. States should take a broader view of harm. States could go beyond the narrow focus on monetary compensation and punishing perpetrators as an adequate remedy and offer victims/survivors diverse redress and reparation.

2. **Ensuring Proportionality to Gravity of Harm or Loss Suffered**

Reparations should be related to the violations suffered, facts of each case, gravity of violations and damage/harm/loss proven, and measures requested to remedy the same, with compensation provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation. Satisfaction can include public apologies or other declarations intended to restore the rights, dignity and reputation of victims/survivors; disclosure of truth and verification of facts; symbolic tributes; sanctions against persons liable for violations and cessation of the violence.

3. **Assuming Responsibility for Recuperating Reparation from Perpetrators**

Victims who pursue compensation from perpetrators may be exposed to further risk and trauma from continued contact with them. Women might only rarely manage to obtain orders for compensation and even when they do, lack of enforcement mechanisms mean that perpetrators do not pay. States should ensure victims/survivors are compensated by assuming the responsibility for recuperating compensation from perpetrators.

4. **Working towards Institutional Reform and Transformative Change**

The effect of reparation should not only be restitution, but also rectifying underlying causal factors of VAW and discrimination. Reparations must aim to transform power relations inherent in structural discrimination to reformulate and transform relationships that fuel violence and exclusion, such as patriarchy and racism. They must include the State obligation to undertake institutional reforms, supported by adequate resources to effectively prevent the occurrence of VAW and put in place mechanisms that guarantee the investigation and punishment of VAW and reparation of victims.
Due diligence is an important international principle. In the context of violence against women (VAW), it denotes a State’s obligation to take ‘reasonable’ action to prevent VAW, protect victims/survivors from VAW, investigate and prosecute incidences of VAW, punish perpetrators of VAW and provide redress for victims/survivors of VAW. This obligation applies to the State although most instances of VAW are committed by non-State actors (individuals not acting on Governmental authority) and within the private sphere. The principal aim of the Project is to add content to the international legal principle of ‘due diligence’ in the context of State responsibility to eliminate VAW. The objective is to create compliance indicators that are concrete and measurable across regions.

ABOUT THE QUESTIONNAIRE

As part of this research we are conducting interviews and undertaking surveys with civil society/ non-governmental organisations (CSOs or NGOs) which advocate against VAW, provide intervention services to victims/survivors of VAW or which mission or objectives include eliminating VAW. One of the Project’s primary research tools is this questionnaire. The questionnaire will be distributed to 6-10 CSOs/NGOs in approximately 30-40 countries. The questionnaire aims to look into existing State measures and challenges encountered by CSOs/NGOs in their work to eliminate violence against women. The questionnaire will also probe civil society on its perception of State action in discharging its obligation; the effectiveness of these actions; and how they can be improved.

The findings of the report will be shared with Governments, inter-governmental organizations and civil society. We also propose to instrumentalize the findings into manuals, tool kits and training modules for practical application.

INSTRUCTIONS

We need your help to provide information about your experiences and knowledge of laws, policies, procedures and practices related to violence against women in your country. Unless otherwise stated, please answer the questions based on your organisational experience, opinion, perception or knowledge. There are no right or wrong answers. As such, there is no necessity to conduct research into academic writings, papers and books before answering the questions although you may look up data specific to your Government/country if it helps you to answer the questions.

Please answer all questions as comprehensively as possible, providing links and additional information where possible. Where a box is provided, please tick or cross (✓ or X) the box that corresponds with your opinion/answer. Where relevant, you may tick or cross (✓ or X) more than one box.

If you are not sure of the answer to the question, or if you don’t know the answer to the question, please tick or cross (✓ or X) “Not sure”. You may be contacted by our survey assistants should we require clarification on any of your answers. If you do not wish to be contacted, you may indicate that you do not wish to be contacted in question A12.

SUBMISSION OF QUESTIONNAIRES and DUE DATE

Responses to this questionnaire should be sent in electronic format to:
CONTENTS

As it is important to specify particular gaps, as well as good practices, we have organised this questionnaire according to the five areas mentioned above. We would also like some basic information about your work.

A. Organisation Profile
B. Prevention of VAW
C. Protection from VAW
D. Prosecution and Investigation of VAW
E. Punishment of Perpetrators
F. Provision of Redress to Victims/Survivors

CONFIDENTIALITY

We assure you that your answers are treated in confidence and only aggregated data will be used in the final report, unless permission is specifically obtained from you or for us to attribute any answers to your organisation. As this is a questionnaire addressed to CSOs/NGOs and not individual persons, we request that the person completing the questionnaire must have authority to speak on behalf of your organisation.

You will also be asked if you wish us to keep your identity confidential and if you wish not to be contacted by us for further information or clarification. Please make sure you answer these questions i.e., questions A11 and A12.

TERMINOLOGY

Good Practices: Practices that are effective and in addressing or impeding VAW and can be replicated.

Government: The government of your country or the country in which your organisation is most active; acting either on its own behalf or acting through a government actor, such as the police. Governments include national, state/provincial and local governments as well as any Governmental entities. In international law, the acts or omission of all levels of Governments their agencies are imputed to the national Governments which are generally the party held responsible under international law. Such as the obligations under CEDAW (United Nations Convention on the Elimination of All Forms of Discrimination against Women) which is ratified by 187 countries. Government programmes and activities also include those funded by the Government but carried out by non-Governmental agencies. In this questionnaire acts of State or Government includes those of the legislature and judiciary.

Helplines: Are telephone numbers which women are able to call when encountering VAW or threats of VAW when they are in need of services. Sometimes called hotlines.

Non-state actor: Individuals whose actions cannot be imputed to the Government/State. This means the individual was not acting on the authority, apparent or purported authority or with the sanction of the Government/State.

One stop centres: A location where the necessary services required by victims/survivors are provided. Doctors, medical personnel, police and counsellors are in attendance at this location. This will minimise the need for the victim/survivor to shuttle from the hospital to the police station and other agencies.

Perpetrator: Person who commits VAW

Recidivism: Habitual falling back into crime.

Restitution: Restoration of loss suffered to the victim/survivor.

State: See ‘government’

VAW or Violence against women: Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Victim/survivor: The woman impacted by VAW or against whom VAW was committed.

WEBSITE

Please see www.duediligenceproject.org for more information/clarification
A. ORGANISATIONAL PROFILE

A1. Name of organisation:

A2. Job position: (of person filling in form)

A3. What year was the organisation founded?

A4. Address of organisation [City, State (Province) and Country]:

A5. Website and email address (if any):

A6. This questionnaire is meant only for organisations working on issues related to violence against women. Is your organisation involved (whether fully or partially) in the following areas (please select one or more)?

<table>
<thead>
<tr>
<th>Areas of work</th>
<th>a. Research</th>
<th>b. Advocacy / Outreach</th>
<th>c. Law reform</th>
<th>d. Support services</th>
<th>e. Training</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Rape and sexual assault</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Sexual harassment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Domestic violence</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. VAW in cultural-religious context</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. VAW in times of war/conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Trafficking</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Female genital mutilation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Indigenous (tribal) women and VAW</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Violence against girl children</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Other (please describe)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A7. Does your organisation have programmes and activities in these areas? (please select one or more)
   o Local  o National  o Regional  o International

A8. Does the Government reach out to/dialogue with civil society on VAW?
   o Yes  o No

A9. Does the Government financially support your work on VAW?
   o Yes, fully  o Yes, partially  o No

A10. Does your organisation monitor/assess (whether formally or informally) Government programmes on VAW?
     o Yes  o No

A11. Would you like us to hold the name of your organisation confidential? (if you answer no, you are giving us permission to disclose your organisation’s name in our reports)
     o Yes  o No

A12. Can we contact you should we require further information or clarification on any of your answers?
     o Yes  o No
B. PREVENTION

Prevention includes measures taken by the Government to impede VAW from occurring. Prevention programmes sometimes target perceived causes of VAW and often include awareness campaigns, training and education.

B1. (a) Does the Government have prevention programmes that cover the following types of VAW? (b) If yes, please rate the effectiveness of the programmes (1=not at all; 5=very much). XX Note: The responses include both direct government prevention efforts and government funding to organizations.

<table>
<thead>
<tr>
<th>Type of VAW</th>
<th>(a) Programmes exist?</th>
<th>(b) IF YES, please rate effectiveness (1=not at all; 5=very much)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Domestic violence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Sexual harassment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Rape and sexual assault</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Abuse of girl children</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. VAW in times of war/conflict</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Trafficking</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Female genital mutilation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Disfiguring attacks (e.g. splashing acid)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Child marriage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Forced marriage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Other (please specify):</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B2. (a) Does the Government have VAW prevention programmes targeted toward the following groups/entities? (b) If yes, please rate the effectiveness of the programmes (1=not at all; 5=very much).

<table>
<thead>
<tr>
<th>Target Groups Entities</th>
<th>(a) Programmes exist?</th>
<th>(b) IF YES, please rate effectiveness (1= not at all; 5= very much)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Police</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Medical service providers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Community, religious or traditional leaders</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Men and boys</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Young children (ages 5-10)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Youths and teenagers (ages 11-25)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Teachers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Women</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Minority/vulnerable groups (please specify)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Others (please specify)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### B3. Do VAW preventive measures, where they exist, have specific provisions for the following groups?

<table>
<thead>
<tr>
<th>Groups</th>
<th>Yes</th>
<th>No</th>
<th>Not sure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Migrant women</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Women refugees and displaced women</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Women from rural areas</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Women with psychological difficulties</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Women with chronic diseases</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Women with disabilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Women with minority sexual orientation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Other (please specify):</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### B4. (a) In your organisational experience, do the following factors increase the risk of VAW? (1=not at all; 5=very much); and (b) has the Government taken steps to address them?

<table>
<thead>
<tr>
<th>(a) Increased prevalence?</th>
<th>(b) Addressed by Government?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1 = not at all; 5 = very much)</td>
<td>Yes</td>
</tr>
<tr>
<td>1. Inadequate housing for family</td>
<td></td>
</tr>
<tr>
<td>2. Financial instability for family</td>
<td></td>
</tr>
<tr>
<td>3. A woman’s lack of economic independence</td>
<td></td>
</tr>
<tr>
<td>4. A woman’s low level of schooling and education</td>
<td></td>
</tr>
<tr>
<td>5. Negative cultural or religious perception of women</td>
<td></td>
</tr>
<tr>
<td>6. Gender inequality</td>
<td></td>
</tr>
<tr>
<td>7. Other (please specify)</td>
<td></td>
</tr>
</tbody>
</table>

### B5. In your own words, please provide some additional information about two of your Government programmes on prevention of VAW?

1

2

### B6. Please describe two programmes that in your opinion constitute good practices in prevention and the reason(s) why (whether or not they exist in your country).

1

2
Protection keeps the victim/survivor safe from present harm. This includes avoiding the re-occurrence of further violence and ensuring the victim/survivor receives adequate and timely services.

**C1.** We are interested in Government services available to women victims/survivors of VAW. For each of the services listed below, please indicate whether each is (a) available; and (b) IF YES, approximately how many exist nationally.

<table>
<thead>
<tr>
<th>(a) Available?</th>
<th>(b) IF YES, approximately how many?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

1. One-stop centres: medical, police, and psychological/emotional assistance/support in one place
2. Counselling and support centres
3. Legal advice or legal referrals centres
4. Telephone help lines
5. Medical and health services centres
6. Rehabilitation services centres
7. Empowerment services centres
8. Creches or child care centres
9. Immediate, safe housing/shelters
10. Other (please specify):

(c) For each service answered YES above please indicate whether these services are accessible in terms of cost, public transportation, availability in rural areas and services provided in local languages/dialects.

<table>
<thead>
<tr>
<th>(a) Cost</th>
<th>(b) Close to public transport</th>
<th>(c) Available in rural areas</th>
<th>(d) Local languages/dialect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
<td>Not sure</td>
<td>Yes</td>
</tr>
</tbody>
</table>

1. One-stop centres: medical, police, and psychological assistance in one place
2. Counselling support centres
3. Legal advice or legal referrals centres
4. Telephone help lines
5. Medical and health service centres
6. Rehabilitation service centres
7. Empowerment service centres
8. Creches or child care centres
9. Immediate, safe housing (shelters)
10. Other (please specify):

**C2.** Please list two other factors that render any/each of the services listed above more/less accessible.
C3. Please indicate whether the following interventions are immediately available, by police/judicial/medical/social service personnel, in response to allegations of VAW?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Not sure</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>a. Police</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Quick response</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Police have</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Police can</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Other (please</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Other (please</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Other (please</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>b. Prosecution</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Quick turn around</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Co-ordination</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Other (please</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>c. Judicial</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Prompt availability</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Court can order</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Court can issue</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Court can order</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Court can order</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Other (please</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>d. Medical</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Quick and effective</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Emotional,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Other (please</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>e. Social services</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. On scene social</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Other (please</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

C4. Please describe two programmes that in your opinion constitute good practices in protection and the reason(s) why (whether or not they exist in your country).

1
2

D. PROSECUTION AND INVESTIGATION
Investigation and prosecution are actions taken by the Government when it knows of VAW incidences. It allows victims/survivors to take steps to try to stop VAW without fear of repercussions.

**D1. (a)** In your organizational experience, do VAW victims/survivors complain of the following factors?; and **(b)** In your organizational experience, do the following factors deter a victim/survivor of VAW from seeking help (1=not at all; 5=very much)?

<table>
<thead>
<tr>
<th>(a) Complain?</th>
<th>(b) Deter? (1=not at all; 5=very much)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>1. Act not legally recognised as a crime</td>
<td></td>
</tr>
<tr>
<td>2. Lack confidence in police (timely intervention, efficient investigation)</td>
<td></td>
</tr>
<tr>
<td>3. Lack confidence in judicial process (duration of trial, re-living incident)</td>
<td></td>
</tr>
<tr>
<td>4. High cost of legal action</td>
<td></td>
</tr>
<tr>
<td>5. Social stigma/taboo associated with the act</td>
<td></td>
</tr>
<tr>
<td>6. Lack support of extended family</td>
<td></td>
</tr>
<tr>
<td>7. Negative legal consequences (e.g. victim may be punished if her allegation/case is not proven)</td>
<td></td>
</tr>
<tr>
<td>8. Fear repercussions from perpetrator</td>
<td></td>
</tr>
<tr>
<td>9. Lack information on options</td>
<td></td>
</tr>
<tr>
<td>10. Non-availability of VAW service providers/NGOs</td>
<td></td>
</tr>
<tr>
<td>11. Negative financial consequences (e.g. loss of spousal support)</td>
<td></td>
</tr>
<tr>
<td>12. Fear loss of child custody</td>
<td></td>
</tr>
<tr>
<td>13. Absence of mediation/non-criminal dispute resolution process</td>
<td></td>
</tr>
<tr>
<td>14. Fear loss of housing</td>
<td></td>
</tr>
<tr>
<td>15. Fear deportation</td>
<td></td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
</tr>
</tbody>
</table>

**D2.** At times, VAW victims/survivors are unable or refuse to continue with prosecution of their case; Governments respond to this in different ways. Please rate the extent to which you agree with the following responses by Governments in the event the victim/survivor is unable or refuses to continue with prosecution (1=strongly disagree; 5=strongly agree):

<table>
<thead>
<tr>
<th>Government’s response</th>
<th>(1=strongly disagree; 5=strongly agree)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Drop prosecution</td>
<td></td>
</tr>
<tr>
<td>2. Enforce mandatory no-drop policy</td>
<td></td>
</tr>
<tr>
<td>3. Proceed with prosecution but excuse the victim/survivor from testifying (i.e. prosecution is not dependent on participation of the victim/survivor)</td>
<td></td>
</tr>
<tr>
<td>4. Deny protection under the law to the victim/survivor (e.g. restraining order, asylum for trafficked women) for failure to co-operate</td>
<td></td>
</tr>
<tr>
<td>5. Prosecute the victim/survivor for failure to co-operate in the prosecution</td>
<td></td>
</tr>
<tr>
<td>6. Punish victim/survivor (e.g. presumed to have lied in her complaint)</td>
<td></td>
</tr>
</tbody>
</table>
Government’s response (1=strongly disagree; 5=strongly agree)

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. Provide mediation or alternative dispute resolution processes to the victim/survivor</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Other (please specify)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D3. Please rate the extent to which the following sentiments accurately represent police and judicial responses when dealing with VAW (1=not at all; 5=very much) :

<table>
<thead>
<tr>
<th>Sentiments</th>
<th>Police (1=not at all; 5=very much)</th>
<th>Prosecutor (1=not at all; 5=very much)</th>
<th>Judiciary (1=not at all; 5=very much)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Tolerance of VAW</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>2. Blaming the victim/survivor</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>3. Preference to “talk it out” with perpetrators</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>4. Need to protect the institution of the family</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>5. Other (please specify)</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
</tr>
</tbody>
</table>

D4. Plural system (different laws which are applicable to different communities including religious and customary laws):

<table>
<thead>
<tr>
<th>a. Is there a plural legal system in your country?</th>
<th>Yes</th>
<th>No</th>
<th>Not sure</th>
</tr>
</thead>
<tbody>
<tr>
<td>b. IF YES, ...</td>
<td>1. is the religious/customary legal system legally recognised/sanctioned?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. are acts of VAW typically harder to prove in the religious/customary legal system?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. does the religious/customary legal system provide justifications for or condone VAW (e.g. husbands committing domestic violence)?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. which group(s)/communities does the religious/customary legal system apply to? (please describe)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D5. Please describe two programmes that in your opinion constitute good practices in prosecution and the reason(s) why (whether or not they exist in your country).

<table>
<thead>
<tr>
<th>1</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>
**E. PUNISHMENT**

Punishment is something negative imposed on the perpetrator as a consequence of his/her having committed VAW.

**E1.** For each type of VAW listed below, please (a) describe the typical punishment, if any; (b) describe who imposes the punishment (e.g. court, formal or informal tribunals); and (c) rate whether the punishment is commensurate with the crime (1=very lenient, 2=lenient, 3=commensurate, 4=harsh, 5=very harsh).

<table>
<thead>
<tr>
<th>Types</th>
<th>(a) Typical punishment</th>
<th>(b) Who imposes</th>
<th>(c) Commensurate with crime</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1=very lenient; 5=very harsh)</td>
</tr>
<tr>
<td>1. Rape</td>
<td></td>
<td></td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>2. Rape in times of war/conflict</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Sexual assault</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Domestic violence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Trafficking</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Sexual harassment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Forced marriage</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Child marriage</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Marital rape</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Female genital mutilation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Disfiguring attacks (e.g. splashing acid)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12. Other (please specify)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**E2.** For each type of VAW listed below, please rate whether, in your opinion, the typical punishment ordered by the court (that you inserted above) is adequate to (a) prevent recidivism (habitual falling back into crime by perpetrators) (b) rehabilitate perpetrators and (c) deter others from committing an offence (where 1 = not at all; 5 = very much).

<table>
<thead>
<tr>
<th>Forms of VAW</th>
<th>(a) Prevent recidivism</th>
<th>(b) Rehabilitate perpetrator</th>
<th>(c) Deter others</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1=not at all; 5=very much)</td>
<td>(1=not at all; 5=very much)</td>
<td>(1=not at all; 5=very much)</td>
</tr>
<tr>
<td>1. Rape</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Rape in times of war/conflict</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Sexual assault</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Domestic violence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Trafficking</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Sexual harassment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Forced marriage</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Early/child marriage</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Marital rape</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### E3. To what extent, in your opinion, (a) do and (b) should the following defences influence sentencing (1=not at all; 5=very much)?

<table>
<thead>
<tr>
<th>Factors</th>
<th>(a) Do influence sentencing</th>
<th>(b) Should influence sentencing</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1=not at all; 5=very much)</td>
<td>(1=not at all; 5=very much)</td>
</tr>
<tr>
<td>1. Defence of provocation (e.g. ‘victim/survivor asked for it’)</td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>2. Defence of honour</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. State of war/conflict</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Other (please describe)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### E4. In certain instances in plural/alternate/community forms of justice, women themselves are seen as offenders/transgressors of social norms. Where this occurs in the country in which you are active, please list (a) the offences (e.g. adultery; improper dressing; having child outside of wedlock), (b) the typical punishment for each offence and (c) whether the punishment is commensurate with the offence (1=very lenient, 2=lenient, 3=commensurate, 4=harsh, 5=very harsh)? Where it does not occur in your country, please tick/cross this o.

<table>
<thead>
<tr>
<th>(a) Offence</th>
<th>(b) Typical punishment</th>
<th>(c) Punishment commensurate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(please describe)</td>
<td>(please describe)</td>
</tr>
<tr>
<td>1.</td>
<td></td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### E5. Are the following programmes (a) provided by Government to perpetrators of VAW; and (b) should they be?

<table>
<thead>
<tr>
<th>(a) Already provided</th>
<th>(b) Should be provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(a)</th>
<th>(b)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Anger management/intervention or prevention programme</td>
<td></td>
</tr>
<tr>
<td>2. Counselling</td>
<td></td>
</tr>
<tr>
<td>3. Support groups</td>
<td></td>
</tr>
<tr>
<td>4. Rehabilitation / reintegration</td>
<td></td>
</tr>
<tr>
<td>5. Community service</td>
<td></td>
</tr>
<tr>
<td>6. Other (please name)</td>
<td></td>
</tr>
</tbody>
</table>

### E6. Please briefly describe two ways that in your opinion constitute good practices in Government sanctioned sentencing and punishment and the reason why (whether or not they exist in your country).
F. PROVISION OF REDRESS AND REPARATION

Redress is any form of compensation or reparations available to a victim/survivor of VAW. This could take different forms, from monetary compensation and apology to symbolic reparations.

F1. Below is a list of possible harm/loss that VAW victims/survivors may suffer. For each harm/loss listed please indicate (a) whether the victim/survivor can seek redress; and (b) if yes, the typical redress granted.

<table>
<thead>
<tr>
<th>Harm/loss</th>
<th>(a) Redress available</th>
<th>(b) IF YES, please indicate typical redress given</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Physical harm</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Mental harm</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Lost opportunities, including employment, education and social benefits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Material damage including loss of earnings and loss of earning potential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Moral harm (loss of reputation)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Legal and expert assistance cost</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Medicine/medical cost</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Psychological/mental services cost</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Cost of children’s incidental (e.g. maintenance)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Other (please specify)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

F2. (a) Which of the following processes for redress are available to the victim/survivor of VAW? If available, (b) please indicate who bears the cost of the process.

<table>
<thead>
<tr>
<th>Process</th>
<th>(a) Available</th>
<th>(b) IF YES, who bears the cost?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Victim compensation scheme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Court action for civil remedies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Redress granted during criminal trial</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Truth and reconciliation tribunals</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Administrative tribunals (please name)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Legally sanctioned community and religious councils and tribunals</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Not legally sanctioned community or religious council, tribunals or patron/chief</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Vigilante community justice</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### F3. In theory, there are several types of redress that may be available to victims/survivors of VAW. For each harm/loss listed below, please indicate the redress that, in your opinion, is the most important. You may check up to a maximum of three for each harm/loss suffered.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>________________________</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### F4. (a) Does the Government have allocation to pay compensation to victims/survivors?

- o Yes
- o No
- o Not sure / Don’t know

(b). IF YES,

1. Name of scheme:
2. How much is allocated:
3. How much is spent: _____________

Varies (not controlled by national Government) _______________

### F5. Where restitution is available for acts of VAW, please rate how effective it is in restoring the losses listed below to the victim/survivor of VAW (1=not at all; 5=very much).
<table>
<thead>
<tr>
<th></th>
<th>(1=not at all; 5=very much)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Property and place of residence</td>
</tr>
<tr>
<td>2</td>
<td>Liberty</td>
</tr>
<tr>
<td>3</td>
<td>Employment</td>
</tr>
<tr>
<td>4</td>
<td>Economic loss</td>
</tr>
<tr>
<td>5</td>
<td>Reintegration into communal and family life</td>
</tr>
<tr>
<td>6</td>
<td>Citizenship</td>
</tr>
<tr>
<td>7</td>
<td>Social standing</td>
</tr>
</tbody>
</table>

**F6. Please**

describe two programmes that in your opinion constitute good practices in redress and the reason(s) why (whether or not they exist in your country).

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

THE END.

THANK YOU FOR COMPLETING THE QUESTIONNAIRE