

## VAWG Legislation

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**Query:** Provide a brief overview of what types of **legislative reform** are most effective in protecting women and girls from VAWG. Then focus on what have the promising/effective/ineffective **strategies** and approaches that have enabled the **implementation** of legislative reform. It should look at both reform and implementation changes that have taken place at national, regional and international level and clearly identify lessons learned for development actors (particularly DFID).

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### Questions

1. Brief overview: what characteristics and/or types of legislation are most effective/ineffective in addressing Violence Against Women and Girls (focus on domestic violence, marital rape and sexual harassment)?
  - Signpost/summarise resources that identify best practice in comprehensive VAWG legislation (covering punitive, protection and preventative measures and provisions for monitoring)
2. What have been the key approaches, strategies and lessons to driving change in the formulation of VAWG legislation?
  - What factors have provided an enabling environment for effective legislative reform? (e.g. the political, social context). What are the key drivers of change at national/regional/international levels?
  - What lessons are there for the role of donor and diplomatic agencies like DFID and FCO? What are the key risks and how have these been mitigated?
  - What are the links between legislation changes for LGBT equality and for preventing and addressing VAWG? Are there examples of solidarity/shared approaches between LGBT and women's movements?
3. What are the key factors/drivers that have contributed to effective or ineffective **implementation** of VAWG legislation?
  - What factors have contributed to the effective **implementation** of legislative reform?
  - What lessons are there for the role of donors? What are the key risks?
  - What does good monitoring and evaluation look like in international efforts to support legislative reform and its effective implementation?

## 1. OVERVIEW

Over the past 25 years, the number of countries introducing laws addressing domestic violence has risen from close to zero in 1990, to 118 by 2016 (World Bank, 2016). However, only 44% of countries fully enforce their laws (WHO, 2014). The purpose of this VAWG Helpdesk paper is to provide a brief overview of what types of legislative reform are most effective in protecting women and girls from VAWG. It explores promising strategies and approaches that have enabled the implementation of legislative reform and implementation changes that have taken place at national, regional and international level. Risks and lessons learned for development actors (particularly DFID) are identified.

### Best practice in VAWG legislation

VAWG legislation varies greatly in scope and applicability. The most effective characteristics and types of legislation for protecting women and girls from violence:

- Cover the main forms of VAWG (physical, sexual, emotional and economic violence) as well as types of violence, including sexual harassment in employment, education and public places, and violence within the family and interpersonal relationships;
- Specifically identify women as beneficiaries of the legislation;
- Provide for coordinated care and support services by promoting the role of various sectors;
- Explicitly prohibit mediation;
- Clarify the relationship between customary and/or religious law and the formal justice system and codify the survivor's right to be treated in accordance with human rights and gender equality standards under both processes;
- Ensure States comply with the 'due diligence' standard in international law, which requires States to take 'reasonable' action to prevent, protect against, prosecute, punish and provide redress for violence against women; and
- Protect all women equally and does not contain provisions, and/or be applied by the justice system in a manner which discriminates between different groups of women.

### Driving change in the formulation of VAWG legislation

Key drivers of change at the national, regional and international levels that have provided an enabling environment for effective legislative reform, include:

- International and regional human rights conventions and associated campaigns, with notable upticks in countries passing national legislation afterwards.
- Women's organisations and the feminist movement, with a study of 70 countries between 1975 and 2005 concluding that a strong, autonomous feminist movement is both substantively and statistically significant as a predictor of government action on VAW (Htun and Weldon, 2012).
- Gender machineries (or women's policy agencies), although these agencies tend to add to, rather than replace, the work of autonomous women's movements.
- Evidence remains mixed about the impact of women parliamentarians on legislative reform around VAWG.

Various studies have looked at the impact of other factors, including economic factors (e.g. national wealth) and political factors (e.g. presence of leftist parties), but found little evidence that they drive legislative reform on VAWG.

## Effective implementation of legislation reform

A review of the evidence suggests that key factors contributing to the effective implementation of VAWG legislation include:

- Political will and enabling environment, including a comprehensive policy framework which includes a national action plan and data collection;
- Adequate budgets at all levels, for example through a general budgetary obligation;
- Shifting attitudes and norms around VAWG, both amongst enforcement agencies/institutions and the wider public, where social sanctions support legislative sanctions and encourage (rather than discourage) women's reporting of violence;
- Appropriate training and capacity building of public officials, including police and judicial officers to ensure that legislation protects women and girls from violence and holds perpetrators accountable;
- Specialized police, prosecutorial units and courts that can help identify, refer, protect and support women who have experienced violence;
- Demand for justice from women (often part of a two-sided programme looking at both supply and demand)
- Coordination between different agencies to help women experiencing violence to navigate the system and access needed services;
- Monitoring of implementation by civil society and women's organisations, for example through observatories and diagnostic surveys to regularly collect data; and
- Women-led campaigns for governments to fulfil their commitments to fully implement VAWG laws and shift public opinion.

The report also explores what good monitoring and evaluation looks like in international efforts to support legislative reform and its effective implementation. Examples are given of how DFID has supported multi-agency coordination and monitoring in Nigeria through the VAWG observatories; women-led monitoring with the case study of Sisters for Change; and how the Women, Business and the Law's dataset has been used to track changes over time, draw comparisons between places, and push for legislative reform.

## Risks and lessons for donors and diplomatic agencies

The report identifies several risks for donors and diplomatic agencies in this area, particularly around pushing for legislative reform. These risks include:

- Risk of incentive structures within donor agencies and diplomatic agencies being counter-productive to long timeframes involved in legislative reform;
- Risks of legislative reform being seen as western agenda, with conservative and religious groups frequently arguing that proposed legislation is an attempt to impose European or a 'Western' agenda on local values; and
- Risks of legislation being blocked or watered down because it challenges patriarchal structures and touches on issues of marriage and the family.

These risks continue to present a challenge at the implementation stage. It should be noted that the greatest risks are faced by women survivors of violence seeking to use the new law, and women's rights groups and activists pushing for legislative reform and implementation of legislation, but facing a shrinking civil society space, considerable backlash and often risking their lives to do so. Donors and diplomatic agencies should ensure that adequate safeguards and mitigation strategies are put in place to protect individual women survivors, activists and groups at risk of violence.

Key lessons for donors and diplomatic agencies include:

- Long timeframe for projects, with targets for different legislative stages, e.g. in Nigeria, DFID programmes Voices for Change (V4C) and the State Accountability and Voice Initiative (SAVI) have used a 13-point scale to assess what is politically feasible and track progress.
- Flexible and adaptive programming to respond to complex, rapidly changing legislative processes.
- Being strategic around timings and 'pressure points' (e.g. election times, international/ regional conferences).
- Supporting change internally in the legislative systems, processes and institutions, for example, DFID's V4C programme in Nigeria reinstating the Gender Technical Unit (GTU) – an internal resource centre within the National Assembly.
- Provide funding and/or training and capacity-building to women's rights advocates in countries where there is opportunity to influence legislative reform on VAWG, for example on the mechanics of legislative reform and constitution-building, including through women's lawyers networks and associations who have the existing expertise.
- New legislation is rooted in international human rights frameworks, but framing must show how this is compatible with local/national values.
- Support regional solidarity and sharing of legal expertise.
- Support the documentation of successful women-led campaigns to influence legislative reform and constitution-building, and support the development of toolkits, peer-learning visits, regional skills-sharing conferences.
- Analysis of the political landscape and interests facing different groups in society (particularly political elites and religious/cultural lobby groups) and how this is likely to shape the legislative process.
- Conducting research and providing evidence, for example research by DFID's Work in Freedom programme helped inform new legislation to regulate recruitment agents in India with the aim of preventing trafficking, exploitation and abuse of women and girls to the Middle East.
- Identifying and engaging political 'champions' and allies
- But ... recognise that there is a limit to external actors' influence/advocacy

### **Links between legislation changes for Lesbian, Gay, Bisexual and Transgender (LGBT) equality and VAWG**

This query has also highlighted the intersecting vulnerabilities and exposure that Lesbian, Bisexual and Transgender (LBT) women have to violence, which is rarely covered by existing legislation, as well as some of the links between legislative change for LGBT equality and for preventing and addressing VAWG, including:

- Legislation that criminalises homosexuality in women amplifies the impact of other criminal laws upon women such as laws against adultery, abortion and prostitution; countries with anti-LGBT legislation rank substantially lower in global indices of gender equality more broadly (Human Dignity Trust, 2016).
- Importance of international and regional human rights conventions and associated campaigns for creating an enabling environment for legislative change around VAWG and LGBT equality, e.g. the UN Human Rights Council's adoption of critical standards through a Resolution in 2011 on ending violence based on sexual orientation and gender identity.
- Risks associated with a direct focus on legislative reform, including the clear shift towards exploring collaborative social justice campaigns alongside or at times instead of direct legislative action. There are additional risks for both the LGBT and women's movement of legislative reform being seen as a western agenda.

Evidence and experts consulted as part of this query suggested that donors and diplomatic agencies should support work that brings together LGBT and women's rights activists in safe spaces to build understanding and consensus; this work should be led by LBT women's groups and organisations, with safety as a paramount concern.

There remain a number of challenges to collaborative working between the LGBT and women's movements as a result of the significant backlash to equality and human rights, as well as competition for scarce resources. The increased visibility, organisation and voices of trans communities globally has also represented a challenge for feminist activism as well as impacting on strategies employed by sexual and gender rights activists (see Section 4.2).

Nevertheless, this query has identified some examples of solidarity/shared approaches between LGBT and women's movements, although these remain rare or undocumented due to resourcing issues or the need to concentrate on donor priorities:

- Cooperation between women-led organisations and LGBT groups about the 'double marginalisation' of LBT women.
- Strong intersectional feminist movements, such as the work undertaken by the African Feminist Forum (AFF) and the adoption of a Feminist Charter that is notable for its inclusive, inspirational and intersectional stance.
- Convergence of women's and LGBT movements around gendered violence, and use of shared social media hashtags. For example, Brazil's *#AmarSemTemer* ('Love without Fear') and more recently, the *#MeToo* global movement where both women and LGBT people are speaking up about sexual harassment and assault, especially in the workplace.

### **Strength of evidence and priorities for future research**

The evidence base is relatively mixed for different sub-research questions, with the strongest evidence around the key factors providing an enabling environment for effective legislative reform. Particular gaps in the evidence and therefore priorities for future research include:

- Best practice and guidance on legislation reform and implementation around sexual harassment, including in the workplace, education and public places.
- Key risks and lessons for donors and diplomatic agencies: while there is some evidence on the risks for donors, particularly around legislative reform, there are gaps in the evidence around effective implementation. Lesson learning for donors is better documented than for diplomatic agencies.
- Understanding drivers of change at the regional level – while there is a growing body of evidence at the national and to a lesser extent international level, there is a gap in understanding what drives change and solidarity at the regional level.
- Documentation of successful women-led campaigns to influence legislative reform and constitution-building.
- Documentation of examples of solidarity/shared approaches between LGBT and women's movements, and how donors and diplomatic agencies can best support these approaches.
- Understanding the risks for women survivors of violence seeking to use new laws, and how to mitigate these risks, as well as the risks for women's rights groups and activists pushing for implementation of legislation.
- Agreement on common indicators on the effective implementation of VAWG legislation.

The table overleaf summarises the strength of evidence against each sub-research question using DFID's How to Note on Assessing the Strength of Evidence.

<b>Strength of the evidence</b>			
<b>Sub-questions</b>	<b>Strength of evidence</b>	<b>Comments on evidence</b>	<b>Priorities for future research</b>
<p><b>What characteristics and/or types of legislation are most effective in addressing VAWG</b> (focus on domestic violence, marital rape and sexual harassment)?</p>	<p><b>Medium</b> – moderate quality studies, medium size evidence body, moderate level of consistency. Studies may or may not be contextually relevant</p>	<p>Some systematic reviews on VAWG legislation across countries, as well as contextual studies. Mainly focusing on domestic violence, with some on marital rape. Guidance materials available.</p>	<p>Resources and best practice on legislation around sexual harassment, including in the workplace, education and public places</p>
<p><b>What have been the key approaches, strategies and lessons to driving change in the formulation of VAWG legislation?</b></p> <ul style="list-style-type: none"> <li>• What factors have provided an enabling environment for effective legislative reform? What are the key drivers of change?</li> <li>• What lessons are there for the role of donor and diplomatic agencies like DFID and FCO? What are the key risks and how have these been mitigated?</li> </ul>	<p><b>Medium</b> – moderate quality studies, medium size evidence body, moderate level of consistency. Studies may or may not be contextually relevant</p>	<p>Some high quality quantitative multi-country studies over time (e.g. Htun and Weldon, 2012; Richards and Haglund, 2015), with qualitative observational studies to look at context of key factors providing enabling environment.</p> <p>Limited research on risks and lesson learning for donors, and even less on role of diplomatic agencies</p>	<p>Lesson learning for donors is better documented than for diplomatic agencies. However, further research on both would be useful to understand how donors and diplomatic agencies can support effective legislative reform.</p> <p>Understanding drivers of change at the regional level.</p>
<p><b>What are the links between legislation changes for LGBT equality and for preventing and addressing VAWG? Are there examples of solidarity/shared approaches between LGBT and women’s movements?</b></p>	<p><b>No evidence</b> – few studies exist</p>	<p>Not well documented. Several available studies on legislation on LGBT equality and on women’s movements, but not on the link.</p>	<p>Documentation of examples of solidarity/shared approaches between LGBT and women’s movements, and how donors and diplomatic agencies can best support these approaches</p>
<p><b>What are the key factors/drivers that have contributed to effective or ineffective implementation of VAWG legislation?</b></p> <ul style="list-style-type: none"> <li>• What factors have contributed to the effective implementation of legislative reform?</li> <li>• What lessons are there for the role of donors? What are the key risks?</li> </ul>	<p><b>Limited</b> – moderate to low quality studies, medium size evidence body, low levels of consistency. Studies may or may not be contextually relevant</p>	<p>Good selection of contextual studies, but limited quantitative or multi-country studies.</p> <p>Limited research on risks and lesson learning for donors and diplomatic agencies on effective implementation.</p>	<p>Lesson learning for donors and diplomatic agencies, and particularly how to mitigate risks for women survivors of violence seeking to use the new law, and women’s rights groups and activists pushing for implementation of legislation</p>
<p><b>What does good monitoring and evaluation look like in international efforts to support legislative reform and its effective implementation?</b></p>	<p><b>Limited</b> – moderate to low quality studies, medium size evidence body, low levels of consistency. Studies may or may not be contextually relevant</p>	<p>Promising examples of M&amp;E tools (e.g. World Bank’s Women, Business and the Law project, and Sisters for Change) with some early evidence of how these have supported legislative reform and implementation, but not yet well documented.</p>	<p>Agreement on common indicators on the effective implementation of VAWG legislation.</p> <p>Documentation of the impact of existing M&amp;E models.</p>

## 2 BEST PRACTICE IN VAWG LEGISLATION

In 1996, the UN Special Rapporteur on violence against women, its causes and consequences, presented a **framework for model legislation**,<sup>1</sup> which urges States to adopt legislation which, inter alia:

- Contains the broadest possible definition of acts of domestic violence and relationships within which domestic violence occurs;
- Includes complaints mechanisms and duties of police officers, including that the police must respond to every request for assistance and protection in cases of domestic violence and explain to the victims their legal rights;
- Provides for ex parte restraining orders and protection orders;
- Addresses both criminal and civil proceedings; and
- Provides for support services for victims, programmes for perpetrators and training for police and judicial officials.

However, most laws do not yet fulfil the UN's suggestions for model legislation on VAWG (see box below).

### Legislation on VAWG: key findings from systematic review of 80 countries

A systematic review of VAWG legislation in 80 countries/territories found that **most laws do not incorporate the key components recommended by the UN:**

- Few countries/territories specifically identified women as the beneficiaries of their VAW legislation, including those that labelled their legislation "domestic violence" law (n = 51), of which only two explicitly mentioned women as complainants/survivors (4%).
- Just under half (49%) of countries included definitions of the main forms of VAW in their legislations (economic, physical, psychological, and sexual).
- Most countries' laws (97%) highlight the role of the judicial system, followed by that of social services (60%) and the police (44%). Only 35% mentioned the health sector. In Africa, most VAW legislation only referred to the police and judicial systems. In Asia, VAW legislation mainly emphasised the role of the police and the judicial system, with the occasional reference to social services, health services, and the education system.

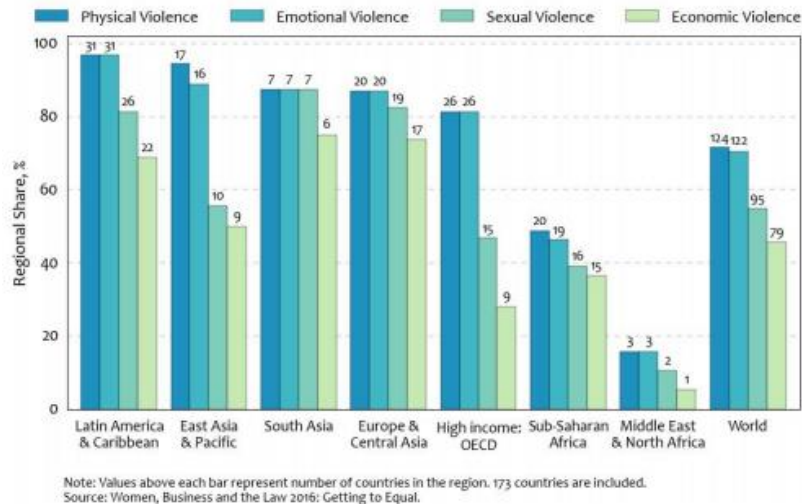
Source: Ortiz-Barreda and Vives-Cases (2013)

**VAWG legislation varies greatly in scope and applicability.** The most effective characteristics and types of legislation for protecting women and girls from violence:

- **Covers the main forms of VAWG (physical, sexual, emotional and economic violence) and types of violence, including sexual harassment:** Of the 127 economies that have laws on domestic violence, 124 (98%) cover physical violence, 122 (96%) cover emotional violence, 95 (75%) cover sexual violence, but only 79 (62%) cover economic violence (World Bank, 2016). The MENA region has the least legislation on domestic violence worldwide, with only 1 in 4 countries having any laws in place (Klugman, 2017). Domestic violence laws also vary according to type of violence covered, with only one country in the MENA region covering economic violence (Lebanon) (see graph below).

<sup>1</sup> Report of the Special Rapporteur on violence against women, its causes and consequences (1996) "A framework on model legislation" E/CN.4/1996/53/Add.2: <https://daccess-ods.un.org/TMP/5120196.34246826.html> . See also Fifteen Years of the United Nations Special Rapporteur on violence against women, its causes and consequences (1994-2009)—A Critical Review, United Nations Special Rapporteur on violence against women, its causes and consequences (2009), available online at: <http://www2.ohchr.org/english/issues/women/rapporteur/docs/15YearReviewofVAWMandate.pdf>

## Topics covered by domestic violence laws, percentage of economies (Klugman, 2017)



1 in 4 (24%) of the economies examined by the World Bank have no laws against sexual harassment. Laws on sexual harassment are most common in employment (66% of economies have a law on sexual harassment in the workplace), with little coverage in education (31%) or public places (10%).

- **Includes violence within the family and interpersonal relationships.** UN Women's (2013) analysis of VAWG legislation in the Asia-Pacific region notes that "it is advisable to include all forms of domestic relationships within the ambit of the law". In Cambodia and Indonesia, laws only cover existing matrimonial relationships, while in Malaysia and Singapore laws include former spouses. In the Philippines, the law also covers "sexual" or "dating" relationships. The widest coverage is provided in Vietnam, where the law does not include any clause defining survivors or coverage.
- **Specific identification of women as beneficiaries of the legislation:** If women are not explicitly recognised as the main complainants and/or survivors of violence in the legal text, there is a risk that laws can be manipulated against women (PAHO, 2004; UN Women, 2011). For example, female survivors of domestic violence have been prosecuted for not protecting their children from violence (UN Women, 2011).
- **Provides for coordinated care and support services by promoting the role of various sectors:** VAW legislation should provide for support services for survivors of violence as well as future prevention, through comprehensive legislation that promotes the role of the police, judicial system, health, education, social services and mass media (UN, 2010). Countries which have VAW legislation covering all six areas include the Philippines, Spain, Argentina, Brazil, Chile, Ecuador, Mexico, and Venezuela (Ortiz-Barreda and Vives-Cases, 2013). Laws which recommend intersectoral coordination mechanisms can help facilitate access to legal and social services.
- **Explicitly prohibits mediation:** Mediation is promoted or offered as an alternative to criminal justice and family law processes in several countries' laws on VAW. However, the UN handbook for legislation on VAW prohibits mediation in all cases of VAW, both before and during legal proceedings, as it removes cases from judicial scrutiny, presumes both parties have equal bargaining power, and reduces offender accountability (UN, 2011). Likewise, the Istanbul Convention<sup>2</sup> forbids any alternative methods for resolving a dispute where violence has occurred.

<sup>2</sup> The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) aims at prevention of violence, victim protection and "to end with the impunity of perpetrators". As of June 2017, it has been signed by 45 countries and the European Union.



- **Clarifies the relationship between customary and/or religious law and the formal justice system and codifies the survivor’s right** to be treated in accordance with human rights and gender equality standards under both processes: The UN Handbook (2011) on VAW legislation notes that there is some evidence of the benefits of certain informal justice mechanisms, such as “women’s courts”<sup>3</sup>; however, measures such as the provision of “compensation” to the family or community of the survivor, and customary reconciliation practices of ceremonies of forgiveness have been “proven to be problematic as they do not focus on healing of, and providing redress to, the survivor” (p.16).
- **Ensures States comply with the ‘due diligence’ standard in international law**<sup>4</sup>, which requires States to take ‘reasonable’ action to prevent, protect against, prosecute, punish and provide redress for violence against women. Although the principle of due diligence is well established in international law, there is no legally binding instrument specifically on VAWG to effectively monitor State responsibility to act with due diligence to respond to, prevent, and eliminate all forms of VAWG (Manjoo, 2013).<sup>5</sup>
- **Protects all women equally** and does not contain provisions, and/or be applied by the justice system in a manner which discriminates between different groups of women.<sup>6</sup>

**Key Resources** that identify best practice in comprehensive VAWG legislation (covering punitive, protection and preventative measures and provisions for monitoring) include:

- United Nations Division for the Advancement of Women in the Department of Economic and Social Affairs (DESA/DAW) (2010) [Handbook for Legislation on Violence against Women](#): Provides detailed guidance to support the adoption and effective implementation of legislation, which prevents violence against women, punishes perpetrators, and ensures the rights of survivors.
- CEDAW (2012) [Do our Laws Promote Gender Equality? A Handbook for CEDAW-based Legal Reviews](#): This handbook presents a framework for assessing compliance of national laws with CEDAW, and includes an example of domestic violence legislation and implementation (pages 30-32). It helps practitioners to design legal indicators, identify discriminatory legal provisions, propose laws, revisions or amendments that promote gender equality, and provide other recommendations to ensure the compatibility of laws with the Convention. Although primarily targeted for practitioners in Southeast Asia, it can also be used in other regions.
- Klugman, J. (2017) [Gender Based Violence and the Law](#): This background paper for the 2017 World Development Report explores the potential and shortcomings of legislative action on VAWG. It examines best practice and key issues around the shape of national legislation, including topic coverage (physical, sexual, emotional, and/or economic violence), criminalisation vs. conciliation, and factors determining whether laws make a difference including monitoring.
- World Bank (2016) [Women, Business and the Law 2016: Getting to Equal](#): This report provides comparable monitoring data from 173 countries covering a range of indicators, including protecting women from violence. Data is available on the existence and scope of laws on domestic violence, sexual harassment, child and early marriage, and marital rape.

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<sup>3</sup> For example, women’s courts can be more accessible to women survivors of violence than the official court system, both in terms of their geographical location, and in relation to the language and manner in which court proceedings are conducted (UN, 2011).

<sup>4</sup> See, for example, General Assembly resolutions 64/137 and 65/187, and Human Rights Council resolution 14/12 (Manjoo, 2013).

<sup>5</sup> The [Due Diligence Project](#) has developed a resource guide elements that support effective implementation of laws against violence.

<sup>6</sup> Including protecting all women without discrimination as to race, colour, language, religion, political or other opinion, national or social origin, property, marital status, sexual orientation, HIV/AIDS status, migrant or refugee status, age or disability (UN, 2011)

- World Bank (2015) [VAWG Resource Guide: Citizen Security, Law and Justice Brief](#): Identifies key areas for integrating VAWG in citizen security, law and justice. Includes promising practice examples from Papua New Guinea, Costa Rica and Rwanda.
- UN Women (2013) [Domestic Violence Legislation and its Implementation: An Analysis for ASEAN countries based on international standards and good practices](#): This paper analyses relevant legislation on domestic violence in ASEAN countries and global good practice.
- Council of Europe (2013) [Handbook for parliamentarians: Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#): Provides examples of best practice in VAWG legislation and implementation in Europe.

**Key resources focused on rape and sexual violence legislation:**

- Ramaseshan, G. (2007) [Addressing Rape as a Human Rights Violation: The Role of International Human Rights Norms and Instruments](#): includes a collection of judgments in the Asia Pacific region as well as norms set by international human rights instruments that may be applied in rape litigation.
- European Union (2013) [Overview of the Worldwide Best Practices for Rape Prevention and for Assisting Women Victims of Rape](#): includes examples of promising prevention around rape prevention, including legislation.

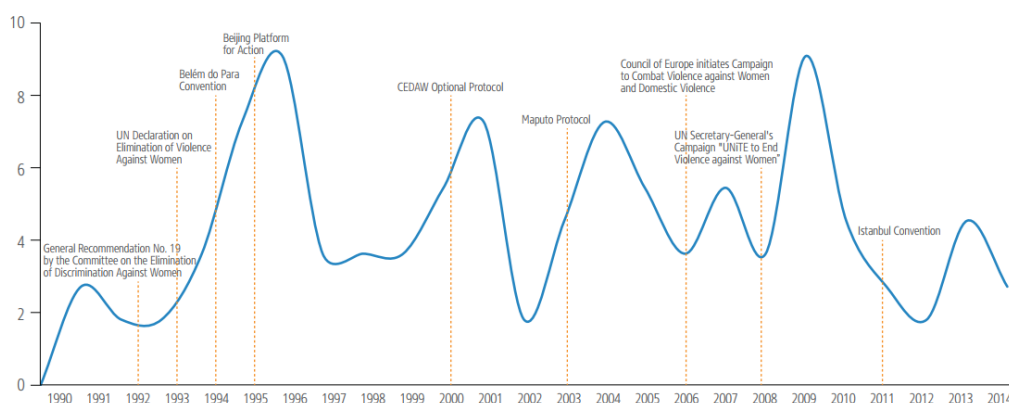
### 3. LEGISLATIVE REFORM

#### 3.1 What factors have provided an enabling environment for effective legislative reform? What are the key drivers of change at national/regional/international levels?

Over the past 25 years, the number of countries introducing laws addressing domestic violence has risen from close to zero in 1990, to 118 by 2016. The increase in VAWG legislation has been driven by a range of factors at the national, regional and international levels that have provided an enabling environment for effective legislative reform, including:

- **International and regional human rights conventions and associated campaigns** (see figure below), with notable upticks after the 1993 UN Declaration on the Elimination of Violence Against Women (DEVAW) and the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para Convention), and again after the 2000 CEDAW Optional Protocol, 2003 Maputo Protocol (World Bank, 2016). In a study of VAWG legislation in Asia-Pacific countries, True (2016) has observed that the outlawing of domestic violence, sexual harassment, rape, and human trafficking “can be attributed to the training of advocates inside and outside government using CEDAW as well as the inter-state social pressure to comply with international norms” (p.8). The language of the DEVAW and of CEDAW Recommendation 19 is replicated in many Asian countries’ laws against VAW, including India, Indonesia, China, the Philippines, and Laos (True, 2016).

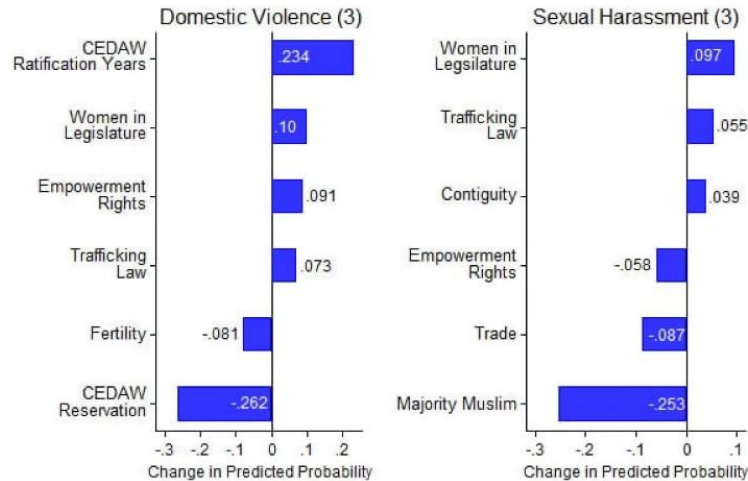
**Countries introducing laws on VAWG** (World Bank, 2016: 22)



International law can also make a difference in the strength of domestic violence legal protections, according to analysis of 196 countries from 2007-2010 (Richards and Haglund, 2015). It finds that as the time since a country has ratified the CEDAW increases (by about eight years), countries are more (about 23%) likely to adopt full legal protections against domestic violence. Countries that placed a full reservation on CEDAW Article 2<sup>7</sup> were found to have reliably weaker domestic violence and marital rape laws.

<sup>7</sup> A number of States enter reservations to particular articles on the ground that national law, tradition, religion or culture are not congruent with Convention principles, and purport to justify the reservation on that basis. Article 2 is the centrepiece of CEDAW that charges parties to, among other things, “embody the principle of the equality of men and women in their national constitutions or other appropriate legislation”

**Effects on the probability of adopting full legal protections (Richards and Haglund, 2015)**



- Women’s organisations and the feminist movement:** A comprehensive and large study conducted by Htun and Weldon (2012) looking at the relationship between women’s social movements and VAW policies in 70 countries between 1975 and 2005 asks why some national governments have adopted a wide variety of measures to address VAW, while others have done little.<sup>8</sup> It concludes that a strong, autonomous feminist movement is both substantively and statistically significant as a predictor of government action to redress VAW – more so than other factors considered, such as the wealth of nations, left-wing political parties or the number of women politicians. Analysis of 36 stable democracies from 1974-1994 found that the women’s movements were the first to articulate the issue of VAW and were the key catalysts for government action (Weldon, 2002).

**Role of Women’s Movement in Legislative Reform in Kenya, Zimbabwe and Nepal**

In 2016/7, Womankind conducted an intensive in-country scoping to establish strategies in the organisation’s focus countries (Ethiopia, Kenya, Nepal, Uganda and Zimbabwe). Womankind spoke to over a hundred women’s rights activists and representatives from women’s rights organisations and movements during meetings, attending conferences, and via Skype and telephone interviews. The scoping found that women’s rights activists in Kenya, Zimbabwe and Nepal had all successfully lobbied for the inclusion of gender equality in constitutions. This provided, on paper at least, protection from violence (see Annex 2 for details of provisions on VAWG). It is important to note that these provisions are in the constitutions partly because of united women’s rights campaigns, led by the women’s movement and working in tandem with women in elected positions and the civil service. Their importance is two-fold:

- 1) They provide an important framework to enshrine the prevention, protection and response to violence in constitutional law;
- 2) They provide a springboard from which women’s movements can hold their governments to account to implement the provisions into national laws and policies (See Section 5).

Based on inputs from Lee Webster, Womankind (See Annex 1 for full inputs)

<sup>8</sup> This study uses an index that assigns higher values to those governments that address more types of violence using a variety of interventions. Examples of the various types of programmes include services to victims, legal reforms, attention to vulnerable populations, training for professionals, and prevention programmes. However, due to limited data, the index does not capture variation in the implementation of policies against violence, or in policy effectiveness.

- **Gender machineries (or women’s policy agencies):**<sup>9</sup> Analysis from 70 countries found a positive and significant relationship between gender machineries and government action to address VAWG, although in most places “these agencies tend to add to, rather than replace, the work of autonomous women’s movements” and are often formed in response to women’s movements demands and as a way to comply with international agreements such as CEDAW (Htun and Weldon, 2012).
- **Women in government:** Evidence remains mixed about the impact of women parliamentarians on legislative reform around VAWG. Htun and Weldon’s (2012) study of 70 countries from 1975 to 2005 found that the effect of the percentage of women in legislature is small and insignificant. Indeed, various studies have found that women in national parliaments tend to come from elite families, be ‘token representatives without real power’, and feminists are often filtered out during the nomination process (Cueva Beteta, 2006). However, a study of 196 countries found that women parliamentarians make a difference; as the percentage of women in the legislature increases by about 10%<sup>10</sup>, countries are about 10% more likely to adopt full legal protections against domestic violence and sexual harassment (Richards and Haglund, 2015).

Various studies have looked at the impact of other factors, including economic factors (e.g. national wealth) and political factors (e.g. presence of leftist parties), but found little evidence that they drive legislative reform on VAWG (e.g. Htun and Weldon, 2012; Richards and Haglund, 2015; Klugman, 2017).

### 3.2 What are the key risks and how have these been mitigated? What lessons are there for the role of donors and diplomatic agencies like DFID and FCO?

**3.2.1 Risk of incentive structures within donor agencies and diplomatic agencies being counter-productive to long timeframes involved in legislative reform:** The passing of laws on VAWG are often the culmination of decades of lobbying by legal and women’s rights groups, and can involve multiple drafts and instances of tabling. Within donor organisations and to a lesser extent diplomatic agencies, the incentive structures are often not conducive to legislative reform, for example: long timeframes involved in legislative reform not fitting within short timeframe of donor projects; staff moving onto new assignments or countries at key stages and institutional knowledge being lost; pressure to spend money quickly (e.g. on large conferences, prestigious events at headquarters or study tours to the donor country, when experience from other similar countries might be more relevant); and rivalries between different donor ‘models’ based on their own domestic legal and judicial systems can prevent information sharing and collaborative working (Piron, 2005). Examples of how this risk has been mitigated and key lessons for donors and diplomatic agencies include:

- **Long timeframe for projects, with targets for different legislative stages:** For example, the DFID-funded Voices for Change (V4C) programme in Nigeria was designed to be a 20 year programme. The level of ambition was set based on a realistic assessment of past experience and what could reasonably be expected from V4C inputs, given the existing traction around the bills. It used a 13-point scale<sup>11</sup> setting out different stages from ‘no bill addressing the issue’ to ‘the public aware of the content of new law’ (see Annex 1). The scale was based on what was politically feasible. Tracking progress helped motivate actors to push to the next stage.

<sup>9</sup> The term gender machineries usually refers to “formal government structures assigned to promote gender equality and/or improve the status and rights of women” (McBride and Mazur, 2011: 4) and includes a wide variety of forms from formal ministries to temporary councils and committees (Klugman, 2017).

<sup>10</sup> 10% = one standard deviation from the median

<sup>11</sup> V4C adapted work of the State Accountability and Voice Initiative (SAVI), a demand-side governance programme in Nigeria

- **Flexible and adaptive programming to respond to complex, rapidly changing legislative processes:** Donors and diplomatic agencies should expect that legislative reform around VAWG is likely to be unpredictable, with inevitable drops in momentum and hard-won gains at risk of being eroded. The evidence suggests that milestones, targets and indicators may need to change along the way, based on changing contexts and what would better achieve outputs and outcome (V4C, 2017).
- **Being strategic around timings and ‘pressure points’ (e.g. election times, international/regional conferences):** Women’s groups have sometimes found governments are particularly responsive around election time (Adomako-Ampofo, 2008). In Nigeria, the outgoing President Goodluck Jonathan signed the Violence against Persons Prohibition (VAPP) bill in the closing hours of his presidency in May 2015 and it was seen as one of his legacies (V4C, 2017). In Ghana, the appointment of a new Minister for Women and Children’s Affairs (MOWAC),<sup>12</sup> plus transnational pressure before and after the Beijing Women’s Conference, was seen as critical in increasing Government responsiveness to the domestic violence bill (Allah-Mensah and Osei-Afful, 2017).
- **Provide funding and/or training and capacity-building to women’s rights advocates** in countries where there is opportunity to influence legislative reform on VAWG, for example on the mechanics of legislative reform and constitution-building, including through women’s lawyers networks and associations who have the existing expertise.<sup>13</sup>
- **Supporting change internally in the legislative systems, processes and institutions:** For example, DFID’s V4C programme in Nigeria reinstating the Gender Technical Unit (GTU) – an internal resource centre within the National Assembly (the main legislative body governing Nigeria). The GTU was essential for understanding the internal dynamics and political climate within the legislative chambers, which in turn was critical to the survival or otherwise of the Violence Against Persons Prohibition (VAPP) Bill. The involvement of support staff/clerks was ‘invaluable’: “they became allies in speeding processes through and were the ‘institutional memory’ when a general election meant that half of the legislators changed” (V4C, 2017: 2).
- **Conducting research and providing evidence to inform new legislation:** For example, DFID’s Work in Freedom programme provided research, technical assistance, and policy recommendations that have informed new legislation to regulate recruitment agents in India with the aim of preventing trafficking, exploitation and abuse of women and girls to the Middle East as domestic workers (Annual review, 2016).

**3.2.2 Risks of legislative reform being seen as western agenda** The history of legislation on VAWG and domestic violence is often one of a long struggle, with backlash at various stages (Htun and Weldon, 2012). Conservative and religious groups frequently argue that proposed legislation is an attempt to impose European or a ‘Western’ agenda on local values. For example, in Ghana, the domestic violence bill was seen by the government as a foreign imposition with western ideas that threatened local culture and family values (Sikari, 2017). Examples of how this risk has been mitigated and key lessons for donors and diplomatic agencies include:

- **New legislation is rooted in international human rights frameworks, but framing must show how this is compatible with local/national values** (see Section 3.2.3): In Ghana, the passage of the domestic violence bill faced considerable political opposition that the bill would ‘endanger marriages’. There was particular controversy around the so-called ‘marital rape

<sup>12</sup> The previous Minister for Women and Children’s Affairs (MOWAC), Gladys Asmah, opposed the bill, both at cabinet and within parliament, where she was a leading member of the women’s caucus

<sup>13</sup> Expert contribution, Lee Webster (Womankind)

provision', with the concept of marital rape seen as "foreign and almost unthinkable under Ghanaian culture" (Allah-Mensah and Osei-Afful, 2017: 15). In response, the Domestic Violence Coalition<sup>14</sup> re-framed the law around 'pro-family' values and engaged Chiefs and other opinion leaders who affirmed that "proper traditional practice in marriage calls for dialogue in all matters including sex" (Adomako-Ampofo, 2008: 415). While the Act was considered progressive, it did not explicitly repeal the 'marital rape clause'. Despite this loss, the marital rape clause was repealed a few months later at the insistence of the Commissioner of the Statute Law Revision project, Justice Crabbe.<sup>15</sup>

- **Support regional solidarity and sharing of legal expertise:** There is a risk that legal expertise from Europe or North America is perceived as 'the wholesale importation of legal systems from abroad' (Piron, 2015: 10). Greater reliance on regional experts and locally developed initiatives is a way of mitigating this risk. For example, the Indian feminist movement assisted in the framing of the domestic violence law in Bangladesh (Sifaki, 2017). In North Africa, regional groups have increased cooperation between Arab women activists and MPs, coordinating strategies and learning from each other's success. An example of how this can be supported by the UK is in November 2017, the FCO-supported Westminster Foundation for Democracy<sup>16</sup> supported a two-day summit for representatives from 13 Arab countries to take stock of recent progress made in Tunisia and Lebanon and adopted a Tunis Declaration with legislative recommendations to help combat violence against women in the region.<sup>17</sup>
- **Support the documentation of successful women-led campaigns** to influence legislative reform and constitution-building, and support the development of toolkits, peer-learning visits, regional skills-sharing conferences (as noted in previous bullet). In this regard, the DFID-funded Effective States and Inclusive Development Research Centre's project on [Gender and Political Settlements](#) at the University of Manchester has looked at the 'stories of change' in successfully adopting legislation on domestic violence in Ghana, Rwanda, Bangladesh and Uganda.
- **Recognise that there is a limit to external actors' influence/advocacy:** Lesson learning from DFID's V4C programme in Nigeria was that "as external voices working on institutional changes, it is important to be realistic about the limits of one's influence" (V4C, 2017: 7)

**3.2.3 Risks of legislation being blocked or watered down:** Legislation on VAWG often faces resistance because it challenges patriarchal structures and touches on issues of marriage and the family (Sifaki, 2017). There is a risk that the underlying forms of power and politics that shape legislative reform can lead to laws being blocked, watered down, or reframed so that women are no longer the beneficiaries (and indeed can be manipulated against women). For example, research in Uganda and Bangladesh found that the law did not include provisions against marital rape, with the result that rape within marriage is difficult to prosecute (Sifaki, 2017). Examples of how this risk has been mitigated and key lessons for donors and diplomatic agencies include:

- **Conducting analyses of the political landscape and interests** facing different groups in society (particularly political elites and religious/cultural lobby groups) and how this is likely to shape the legislative process. For example, as part of the DFID-funded Voices for Change in Nigeria, the programme undertook a stakeholder analysis and critical analysis of the context with civil society partners to unpack entry points and barriers and to critically review past experience.

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<sup>14</sup> The National Coalition on Domestic Violence Legislation, established in 2003 specifically to push for the passage of the legislation. It included a range of different types of civil society organisations, academics, women's organisations, journalists, lawyers and grassroots advocacy groups

<sup>15</sup> Justice Crabbe was a member of one of the coalition's sensitisation programmes with parliamentarians in which he served as chairperson (Ampofo, 2008)

<sup>16</sup> Westminster Foundation for Democracy receives a core grant from the UK's Foreign and Commonwealth Office in three-year cycles; the current cycle runs from 2015 to 2018

<sup>17</sup> See: <http://www.wfd.org/ending-violence-against-women-and-girls-in-mena/>

V4C also learnt to continually ‘read the pulse’ for changes, as “individuals and groups ebbed and flowed in their levels of commitment and willingness to push” (V4C, 2017: 8).

- **Supporting coalitions:** In the example of Uganda’s Domestic Violence Act (see below), the coalition included international actors, such as UN Women, UNFPA, Club de Madrid and Care International, who funded the coalition’s awareness-raising, research, and mobilisation efforts.
- **Identifying and engaging political ‘champions’ and allies:** Research by DFID’s Effective States and Inclusive Development programme in Bangladesh found that members of the movement lobbying for legislation on domestic violence had personal ties to the Minister of Women’s Affairs who lobbied on the issue, tipped them off with new developments and later incorporated the movement in the consultations for the drafting of the bill (Sikafi, 2017).

#### **Case study of Uganda’s Domestic Violence Act (2010)**

A study by the DFID-funded Effective States and Inclusive Development research programme looked at the nature of political power and its influence on gender policy incentives, focusing on the adoption and implementation of the Domestic Violence Act (DVA) (2010). It used a qualitative process-tracing approach (involving interviews and focus group discussions) to understand different actors’ roles in enabling or constraining legislative change around VAWG. The study highlights the stiff resistance from various actors, including religious and cultural lobby groups and the President himself, which led to splitting the bill into three pieces of legislation, namely the Domestic Violence Bill, the Marriage and Divorce Bill, and the Muslim Personal Law Bill.

Key moments in the passage of law included: the formation of a coalition<sup>18</sup> in 2008. The need for legislation was framed not in terms of rights, which was seen as more ‘threatening’, but in terms of development benefits and protection of family values. During the legislative process, the murder of General Kazini by an ex-girlfriend led to a further discursive shift to frame men as also being potential victims of domestic violence. The campaign was also shaped by the coalition’s own political analysis of the key actors and drivers for and against the DVA bill.

The study finds that five years after the passing of the DVA, it remains a “tokenistic form of legislation that has barely moved from the statute books” (p.28). There remains limited political will and capacity to implement the law, leading the authors to conclude that “the dynamics of Uganda’s political settlement remain inimical to the promotion of policies genuinely aimed at gender equality in the long term” (p.28).

Source: Ahikire and Mwiine (2015)

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<sup>18</sup> The coalition was initiated by the Uganda Women’s Network (UWONET) and later CEDOVIP (Centre for Domestic Violence Prevention), which included women’s civil society organisations (CSOs), rights organisations, academics, the Ministry of Gender, Labour and Social Development, and the Uganda Women’s Parliamentary Association (UWOPA)



## 4. LEGISLATION CHANGES FOR LGBT EQUALITY AND VAWG: LINKS

### 4.1 What are the links between legislative change for LGBT equality and for preventing and addressing VAWG?

Previous research to examine the prevalence and nature of violence against LGBT people has observed that global statistics for such violence is limited and under-reporting is definitely a factor, particularly in those 76 countries where it remains illegal to be LGBT (Fraser, 2015). Moreover, the impacts of violence on LGBT lives, such as vulnerability to health risks, exclusion from education, physical injuries, stigma and discrimination within employment have contributed to a growing body of work that examines the linkages between sexuality and poverty – and how poverty can entrap individuals in contexts which expose them to higher risk of violence. LBT women also face intersecting vulnerabilities and exposure to violence, which is rarely covered by existing legislation (see box).

#### **The intersecting vulnerabilities and exposure LBT women have to violence**

Research by the International Gay and Lesbian Human Rights Commission (ILGHRC) (2010) examining the experience of non-heteronormative women in Asia illustrates how the **nuances of LBT experiences of violence are not covered by existing legislation:**

- Within the private sphere, LBT women can face violence from family, religious or community members, such as beating, home confinements, rape, forced marriage and at times honour killings.
- Police complicity can exacerbate and support attempts to control LBT women
- State protections against domestic violence are applied with little diligence and many LBT women are denied access to this mechanism
- Victims are too frightened to report violence to the police in case they out themselves and make themselves a target for further attack

The subsequent report from ILGHRC (2014) confirmed that within Japan, The Philippines, Malaysia, Pakistan and Sri Lanka “...the existence of complex layers of intersecting discrimination where violence against LBT individuals was not only motivated by rejection of sexual orientation, gender identity and gender expression but, in many instances, also other identity markers (e.g., race, ethnicity, class, economic status, religion). In this way, LBT individuals were punished by their families and communities for “betraying” their heritage, religion and culture.”

Attempts to tackle LGBT equality issues in countries where it is illegal to be homosexual have in recent years experienced a significant backlash, particularly within Sub-Saharan African states, so there has been a clear **shift towards exploring collaborative social justice campaigns alongside or at times instead of direct legislative action.**

Key links between legislative change for LGBT equality and for preventing and addressing VAWG identified as part of this query include:

- **Legislation that criminalises homosexuality in women amplifies the impact of other criminal laws upon women such as laws against adultery, abortion and prostitution,** as noted in a recent report by Human Dignity Trust (2016). Their analysis demonstrated that countries with anti-LGBT legislation rank substantially lower in global indices of gender equality more broadly, meaning that attention to LGBT and women’s empowerment issues are inextricably linked.
- **Importance of international and regional human rights conventions and associated campaigns.** As noted in Section 3.1, conventions and associated campaigns have created an enabling environment for legislative change around VAWG in many countries. For LGBT

equality, some victories have occurred at the international level. For example, the UN Human Rights Council's adoption of critical standards through a Resolution<sup>19</sup> in 2011 on ending violence based on sexual orientation and gender identity has provided activists with further avenues for strategic litigation. Through their broadening of gender definitions away from an arbitrary, constraining binary, this has provided feminist activists a further tool by which to tackle patriarchal gender norms in their advocacy.

- **Recognition of the intersecting vulnerabilities and exposure LBT women have to violence** (see box) as well as the **risks associated with a direct focus on legislative reform**. As noted in Section 3.2, the history of legislation on VAWG is often associated with backlash at various stages and the shrinking of civil society space has led to attacks on women's rights activists, and groups. Similarly, LGBT activists, groups and human rights defenders are seen to challenge gender norms and value structures. Work conducted by the Institute of Development Studies that examined Sexuality, Poverty and the Law (the SPL Programme) (Lalor et al, 2016) examined the tendency to "turn to law" as the default position in improving the security and safety of LGBT communities and argues that because there are multiple legal routes by which sexual and gender rights can be approached, we should be more strategic in the ways in which we assess their efficacy and limitations. This might involve
  - Exploring the practical experiences of legal reform from the perspective of lawyers, activists and scholars from both LBT and women's movement perspective.
  - Documenting evidence of the impacts of legal processes on social, economic and public services such as policing and how these have contributed to building advocacy efforts.
  - Realising that significant improvement to LBT lives and security can be achieved by taking a policy-influencing route or by changing public discourse through other means.
- **Common risks associated with legislative reform being seen as a western agenda, for both the LGBT and women's movements**. In their research on human rights, sexual orientation and gender identity in Commonwealth countries, particularly in the Caribbean and parts of Africa, Lennox and Waites' (2013) have cautioned donors and diplomatic agencies to be aware of racism, colonialism and imperialism when assessing whether outside interference will have negative effects that outweigh potential benefits of collaboration.

#### **Coalition of African Lesbians: Lessons on addressing violence based on sexual orientation and gender identity and expression**

The Coalition of African Lesbians (CAL) has utilised this approach and been reflective on their experience over a number of years in tackling violence based on sexual and gender expression. They report that:

- Some groups and activists have sought to expand understanding of gender-based violence from narrow inter-personal forms of violence to include structural and systemic violence and discrimination.
- How violence is understood has influenced the kinds of strategies, approaches, partnerships and actions undertaken by activists.
- There is a sense that it is at the regional level that African states are now taking notice or being forced to take notice of "their" human rights system, rather than at the UN level.
- There must be recognition of the connections and intersections between different forms of violence and changing the conversation from a focus on equality only to freedom and dignity and integrating autonomy is needed.

<sup>19</sup> UN General Assembly: Human Rights Council 19 "Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation or gender identity" [http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41\\_English.pdf](http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41_English.pdf)

- Locating violence based on sexual orientation and gender identity and expression within the broader landscape of gender-based violence, which is rooted in unequal and oppressive social relations.
- Investing in participatory action research to produce evidence and data available on the prevalence and nature of violence.

Source: Coalition of African Lesbians (2015)

#### 4.2 Are there examples of solidarity / shared approaches between LGBT and women's movements?

The rise of second wave feminist activism and the nascent Gay Liberation Front (GLF) both drew upon a critique of patriarchal gender norms and the impact these had on hardening structural discrimination and exclusion of women and those with non-normative sexual or gender identities. As a consequence of a significant backlash to equality and human rights, as well as competition for scant resources, there has been a **gradual shift apart of the LGBT and women's movements** in recent years.

In particular, the relatively recent and promising public engagement around **trans equality issues has represented a challenge for feminist activism** and at times has created an atmosphere of hostility by some to the inclusion of trans voices within the wider feminist movement.

This query looks at whether there is evidence of positive engagement and productive relationship building amongst LGBT and women's movements. This included conversations with some key stakeholders. In general, there was a sense from respondents such as Stonewall that whilst they hear anecdotal evidence of productive relationships across both movements, **evidence of such alliances remain rare or undocumented** due to resourcing issues or the need to concentrate on donor priorities. Where evidence exists however, particularly in Sub-Saharan Africa, there are insights into how capacity building of LBT-led organising could improve their ability to collaborate with the wider feminist movement and collaborate on common challenges that each face.

**Many of the issues faced by LBT-led organisations mirror those encountered by the women's movements too.** A report that maps West African LGBTQ organising highlights common challenges and areas of collaboration (Armisen, 2016), such as:

- Activists are working across a diverse number of legal contexts, yet state-sponsored homophobia and religious fundamentalism cuts across states.
- Collaborations are occurring across countries, but particular difficulties are existing between Francophone and English speaking LBT and feminist organisational engagement.
- Key areas of strengthening needed within organisations around understanding of trans\* identities and issues, inclusion of youth, ways to address intimate partner violence, economic empowerment programme and initiatives that speak to LGBTQ people's faith and religious affiliations
- Organisations in Francophone countries have limited knowledge of and access to international donors.

#### Selected examples of solidarity/shared approaches include:

- **Cooperation between women-led organisations and LGBT groups about the 'double marginalisation' of LBT women.** For example, Womankind reported that their in-country scoping work included discussions with leaders or organisations representing LBT in which they talked of the 'double marginalisation' they experienced within their activist lives – as women within the LGBT movement and also as LBT women in the women's movement. It was felt that larger, established organisations such as Womankind could act to 'broker' relationships with mainstream women's movements and contribute to combating homophobic prejudices in feminist

space. Womankind indicated that in conversations with LBT activists it was highlighted that an essential first step remains making activist spaces inclusive and safe for LBT activists.

- **Strong intersectional feminist movements, such as the work undertaken by the African Feminist Forum (AFF)** that responded to a fundamentalist backlash against equality and human rights in the region. It has created an autonomous, inclusive African space for feminist thinking and led to the creation and adoption by AFF member organisation of a **Feminist Charter<sup>20</sup> in 2006 that is notable for its inclusive, inspirational and intersectional stance**, affirming the “freedom of choice and autonomy regarding bodily integrity issues, including reproductive rights, abortion, sexual identity and sexual orientation”.
- **Convergence of women’s and LGBT movements around gendered violence, and use of shared social media hashtags.** For example, in Brazil, both the feminist and LGBT movements in Brazil in 2016 found common ground around the hashtag **#AmarSemTemer** (‘Love without Fear’)<sup>21</sup> against a backdrop of sexist and homophobic political rhetoric around the impeachment of Brazil’s president, Dilma Rousseff, coupled with extensive reporting of violent assaults on women, trans and gay people. The hashtag quickly went viral on social media and was widespread at political demonstrations. Women’s activists adapted the phrase with the sign ‘*Ser Mulher Sem Temer!*’ (To Be a Woman Without Fear!) (Hertzman, 2016). More recently, the **#MeToo** global movement has brought together women and LGBT people to speak up about sexual harassment and assault, especially in the workplace.<sup>22</sup>

**The increased visibility, organisation and voices of trans communities** globally has represented a significant shift in public discourse and as a consequence, has **impacted upon strategies employed by sexual and gender rights activists**. Unlike many LGB individuals who can remain strategically invisible, many trans people can find themselves to be a visible target for violence and are seen as a very public challenge to patriarchal gender norms. They often bear the brunt of community, family and state violence and are liable to have much higher vulnerability to unemployment, curtailed education and health outcomes. Additionally, trans women face the added burden of taking on restrictive gender norms experienced by all women within society (Hoang and Oosterhoff, 2016). Ironically, at the same time as trans women negotiate this volatile environment, there are essentialist views within the feminist movement about what constitutes a woman that ignores the realities and parallels between all women’s (cisgender or trans) lives.

Increasingly, there are also calls for a different approach to be taken between LGB and trans rights activism. Audrey Mbugua of Transgender Education and Advocacy in Kenya, has written strikingly of the mismatch between the needs of LGBT organisations to combat homophobia and in some ways very different priorities of trans and intersex communities, such as gender identity, gender presentation and for some, sex reassignment surgery (Mbugua, 2016). Although many trans people identify as same-sex attracted, many do not – and by closely identifying with the LGB movement, trans activists can find themselves under further attack.

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<sup>20</sup> Feminist Charter (2006), African Feminist Forum <http://www.africanfeministforum.com/feminist-charter-introduction/>

<sup>21</sup> The phrase played on the interim president Temer’s last name, which happens to mean “fear” in Portuguese.

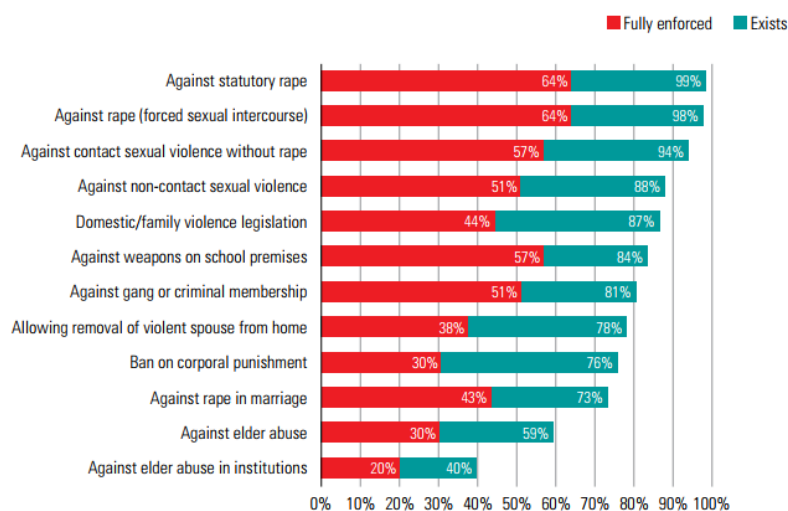
<sup>22</sup> For example, accusations against film director/actor, Kevin Spacey of sexually assaulting another male actor who was 14 years old at the time, which Spacey attempted to dismiss as ‘inappropriate drunken behaviour’ – comments which were widely condemned by LGBTQ activist group GLAAD and others. (See: <https://gizmodo.com/netflix-reportedly-severs-ties-with-kevin-spacey-effec-1820141209>). The Harvey Weinstein scandal also included allegations that the film director attempted to force the bisexual actress Cara Delevingne to kiss another woman in front of him (see: <https://www.theguardian.com/film/2017/oct/10/georgina-chapman-harvey-weinstein-wife-split>)

## 5. IMPLEMENTATION OF VAWG LEGISLATION

### 5.1 What factors have contributed to the effective implementation of legislative reform?

Legislation to prevent violence is now reported to exist in 87% of countries, but **only 44% of countries fully enforce existing laws** (WHO, 2014) – see diagram below. The biggest gaps between the reported existence and enforcement of laws related to bans on corporal punishment (a difference of 46 percentage points) and to domestic/family violence legislation (43 percentage points).

**The proportion of countries with laws to prevent violence and the extent to which countries report these laws as being fully enforced (n = 133 reporting countries) (WHO, 2014: 39)**



Key factors contributing to the effective implementation of VAWG legislation include:

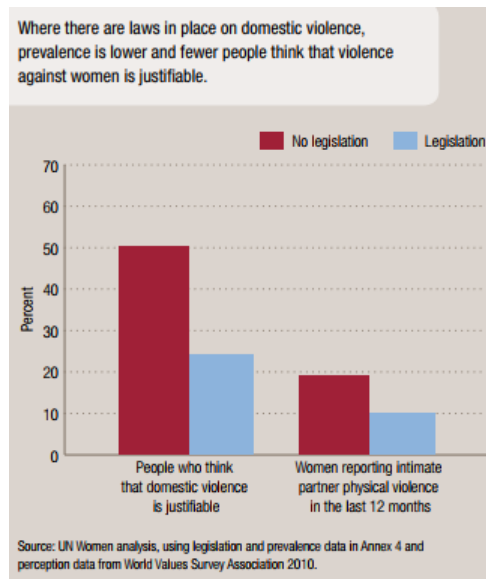
- **Political will and enabling environment:** Even where important legal and policy change on VAWG have been achieved, this is often just the first step in a longer process of creating an enabling environment for the effective implementation. For example, comparative research on domestic violence laws in Ghana and Mexico highlights the importance of understanding political pathways and how/why they make a difference in the effectiveness of the response to domestic violence (ELLA, 2015).
- **Adequate budgets at all levels:** Full and sustained funding is essential to ensuring effective implementation of laws, for example through a general budgetary obligation (UN Women, 2011). Examples include the Republic of Korea and Spain, where the national budget includes dedicated funding to implement legislation on violence.<sup>23</sup> The UN Secretary General's report for the Beijing Platform for Action's 20 year review notes that while many UN member states reformed laws and adopted action plans on VAWG, very few adequately budget and release funds for services that prevent and address violence. The report draws attention to recent cutbacks in services supporting VAWG survivors such as shelters and legal aid as a result of austerity policies (Manjoo, 2013).<sup>24</sup>
- **Comprehensive policy framework which includes a national action plan and data:** Legislation is most likely to be implemented effectively when accompanied by a national strategy. Several laws mandate the design of a national action plan. For example, the Kenyan Sexual

<sup>23</sup> The national budget of the Republic of Korea allocates funds to implement the Acts on Domestic Violence and Sexual Violence. Spain's 2004 Act on Integrated Protection Measures on Gender Violence includes dedicated funding for education and public awareness (UN Women, 2011)

<sup>24</sup> It notes: "The Special Rapporteur is deeply concerned about the weakening of the women's rights sector due to funding cuts for core service provision, including legal, policy and advocacy work. Cuts in funding to NGOs, as a form of reprisal against the work of women human rights defenders, is also of concern. This issue has been raised in numerous reports of treaty bodies and NGOs." (Manjoo, 2013: 18)

Offences Act (Article 46) requires that the relevant Minister prepare a national policy framework to guide the implementation and administration of the Act, and review the policy framework at least once every five years (UN, 2010).

- **Changing attitudes to VAWG:** Key to the effective implementation of legislation and prevention of violence is shifting attitudes and norms around VAWG, both amongst enforcement agencies/institutions (see bullet below) and the wider public (Klugman, 2017; Alexander-Scott et al, 2016). The evidence as to whether legislation itself can change attitudes towards violence is mixed, although where there are laws in place on domestic violence, prevalence is lower and fewer people think that violence against women is justifiable. However, the cause-effect is not established, and there can be complex shifts in public attitudes over time. For example, in Malawi, a 2012 study<sup>25</sup> found that after the domestic violence law was passed in 2006, there was a 15% decrease in the proportion of women who consider wife-beating acceptable, and a 3.7% decrease for men. However, data from the most recent Malawi national survey (2015-2016 Malawi DHS) shows a recent increase in men and women who consider wife-beating to be acceptable.



- **Social sanctions support the reporting of violence and effective implementation of laws:** The 2017 World Development Report observes how the main reason that people obey the law is fear of sanctions, but social sanctions not to report violence have often undercut the incentives created by legal sanctions. The report also notes that competing normative orders can lead to perverse effects; for example, in India where the recent law mandating the death penalty for convicted rapists could lead to a greater pressure on women not to report rape and therefore a reduction in reporting (Pande, 2015; World Bank, 2017).
- **Appropriate training and capacity building of public officials, including police and judicial officers:** Increasing human capacity and appropriate training of service providers is essential to ensure that legislation protects women and girls from violence and holds perpetrators accountable (WHO, 2014). In many countries where laws have been passed, police and judicial officials have limited understanding of the law and still consider VAWG to be a private/domestic matter that should be resolved without state intervention (ELLA, 2015; Brickell, 2014). For example, research in Cambodia highlights how weak rule of law and lack of public trust in the justice system is hampering the effective implementation of the domestic violence law (2005). A study of the implementation of domestic violence law in Cambodia for ESRC-DFID found evidence of the law “being actively discouraged by local stakeholders because of the ‘dangers’ of corruption that victims may face, including the extortion of informal fees. Domestic violence victims systematically reported this too” (Brickell, 2018: 20).
- **Specialized police, prosecutorial units and courts** can help identify, refer, protect and support women who have experienced violence.<sup>26</sup> However, there is evidence that in some countries, the establishment of specialized police units may result in the marginalization of women’s issues and should therefore be accompanied by adequate funding and training of staff (UN, 2010).

<sup>25</sup> Giridhar (2012) using a logistical regression to look at the case study of Malawi, using data from the Demographic and Household Surveys (DHS).

<sup>26</sup> For example, the Domestic Violence Victims’ Support Unit (DOVVUSU) in Ghana and the Special Police Unit for Women in Brazil (Comisariías Especiales de Atención a la Mujer- Special Police Stations for Women Care and Services) (ELLA, 2015)

Specialized courts exist in a number of countries, including Brazil, Uruguay, Venezuela, and South Africa.<sup>27</sup>

- **Demand for justice:** Women's organisations do a lot of work around consciousness raising with women about their rights under new legislation, and accompanying them to seek justice. This is often one part of a two-sided programme which works on supply and demand for justice, and is an approach that DFID has historically supported (see next section).
- **Women-led campaigns for governments to fulfil their commitments to fully implement VAWG laws and shift public opinion,** including Follow The Protocol, an Africa-Wide campaign led by Femnet<sup>28</sup> calling for governments to ratify the Maputo Protocol. National women-led campaigns have also gained prominence. For example, the Coalition on Violence Against Women in Kenya spearheaded the Justice for Liz campaign in 2013<sup>29</sup>, following minor non-custodial punishments being given to the perpetrators of a gang rape of a teenage girl – a watershed moment for the public debate on impunity and the implementation of violence against women laws.<sup>30</sup> Similar campaigns in India (Delhi gang rape<sup>31</sup>), Argentina (Ni Una Menos movement against femicide<sup>32</sup>) and the global #MeToo campaign have similarly been described as shifting public opinion.
- **Cross-agency coordination:** Collaboration between different agencies can help make it easier for women experiencing violence to navigate the system and access needed services; however, it does not usually occur without government intervention to encourage it (Sardenberg, 2011). Several examples of cross-agency coordination can be found in Latin America.<sup>33</sup> In contrast, research in Bangladesh compares the country's rapid progress in adopting the Domestic Violence Act of 2010 with the slow pace of its enforcement. It notes that the Ministry of Women's and Children's Affairs (MOWCA) "requires cooperation from the home, social welfare, law and justice and finance ministries, which has so far been absent" (Nazneen and Masud, 2017: 18).
- **Monitoring of implementation by civil society and women's organisations** for example through observatories and diagnostic surveys to regularly collect data on the prevalence and impact of VAWG helps to drive implementation of laws (UN Women, 2011) (see Section 6).

## 5.2 What lessons are there for the role of donors? What are the key risks?

Donors and diplomatic agencies have played an important role in contributing to the effective implementation of legislative reform (see box below). It is beyond the scope of this rapid query to look at the risks for undermining the effectiveness of implementation efforts for each of these different types of programming beyond noting that **many of the lessons and risks around legislative reform also apply to implementation** – for example, the need for a flexible approach, long-term programming, supporting women's organisations and coalitions, understanding the political landscape, and identifying champions and entry points.

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<sup>27</sup> In South Africa, Sexual Offences Courts established as part of the anti-rape strategy are staffed by a cadre of prosecutors, social workers, investigating officers, magistrates, health professionals and police (UN, 2010).

<sup>28</sup> <http://femnet.org/2016/07/05/keep-the-promises-made-to-african-women-followtheprotocol/>

<sup>29</sup> See guardian article here: <https://www.theguardian.com/global-development/poverty-matters/2013/dec/04/justice-for-liz-kenya-rape-case-impunity>

<sup>30</sup> Expert input: Lee Webster, Womankind

<sup>31</sup> <https://www.theguardian.com/society/2017/dec/03/five-years-after-gang-murder-iyoti-singh-how-has-delhi-changed>

<sup>32</sup> [https://scholar.dickinson.edu/cgi/viewcontent.cgi?article=1268&context=student\\_honors](https://scholar.dickinson.edu/cgi/viewcontent.cgi?article=1268&context=student_honors)

<sup>33</sup> For example, Women Centers in Chile, the national system for attention and prevention of domestic violence in Colombia, the comprehensive legal services in Bolivia, the local networks against violence in Costa Rica and the National Program for a life free from violence in Mexico (ELLA, 2015).

### Examples of how the UK has helped the effective implementation of legislative reform

- **Establishing police units:** In Malawi, DFID's Justice for Vulnerable Groups programme provides support to police and community Victim Support Unit (VSU). VSUs were established to respond to cases involving women and children, including violence and sexual abuse.
- **Training and capacity building of police and judicial officers:** In Jamaica, the UK is training police personnel and frontline responders in how to effectively recognise, deal with and respond to cases of rape, sexual harassment and domestic violence, as part of the Domestic, Sexual and GBV project (jointly funded by the British High Commission and the US Embassy in Kingston).<sup>34</sup>
- **Specialised courts:** In Somalia, the UK has supported mobile courts providing legal aid to women who have experienced VAWG. In Zambia, the first ever fast track court<sup>35</sup> dealing with GBV cases in Africa was launched in Kabwe in 2016, as part of the DFID-funded programme: Promotion and Protection of Women and Children's Right (2013-2017).
- **Supporting the establishment of VAWG observatories:** In Nigeria, VAWG observatories were set up as part of the Nigeria Stability and Reconciliation Programme in five conflict-affected areas.
- **Supporting multi-agency coordination:** In Syria, the UK has contributed to improvements in GBV coordination at the country level.
- **Raising public awareness of legislation:** In India, the percentage of CSO grantees in the Poorest Areas Civil Society (PACS) Programme II (2009-2016) having a high level of knowledge of the key provisions of the Domestic Violence (DV) Act increased from baseline of 29% in 2010 to 82.1% in 2016, and the percentage of socially excluded households having a high knowledge on key provisions of DV Act increased from baseline of 10% to 59.3% in 2016 (Annual review 2016).
- **Increasing demand for justice:** In Nigeria, Liberia, Somaliland and Sierra Leone the DFID-funded project on Access to Justice for Women aimed to increase safety and security of women in conflict-affected communities by influencing demand and supply sides of justice.<sup>36</sup>
- **Shifting social norms around VAWG:** Several DFID programmes have aimed to change public opinion around VAWG, including through several projects as part of DFID's flagship research programme 'What Works to Prevent VAWG?' For example, in DRC, the Tearfund project engages at a local level to work with faith leaders and groups on changing attitudes.

Sources: Social Development Direct (2017); VAWG Helpdesk (2017)

A key lesson is the need for **context-specific programming**, which involves research and analysis of the barriers to effective implementation (see below case study from Zimbabwe).

### How can donors support the implementation of VAWG laws? Case study from Zimbabwe's Access to Justice programme

Zimbabwe Women Lawyers Association (ZWLA) has documented barriers to the implementation of VAWG laws in Zimbabwe based on learnings<sup>37</sup> from their 5 year community-level Access to Justice programme. ZWLA have produced a series of recommendations to national government and international donors, including:

- **Support and fund court monitoring, led by women's rights organisations**, to assess and report on the performance of the police and judiciary against gender provisions in laws and constitution;
- **Consider programming models that recognise the multi-dimensional barriers that women face in accessing justice.** This includes addressing underlying causes of gender inequality, supporting legal aid and advice and the economic strengthening of survivors.

<sup>34</sup> <http://jis.gov.im/police-receive-domestic-violence-training/>

<sup>35</sup> Fast Track Courts are aimed at speeding up hearing of GBV cases. This should not only reduce the possibility of victims being pressurised to drop cases or witnesses to withdraw, but will also reduce the time in detention of those accused of committing these crimes but whose cases have taken too long to come to court.

<sup>36</sup> <http://www.peacewomen.org/content/sierra-leone-sierra-leone-actionaid-discusses-access-justice-rural-women>

<sup>37</sup> Learnings from research supported by Womankind Worldwide and Comic Relief



- **Provide specialised and continuous training for prosecutors** on how to conduct gender sensitive and effective prosecutions of sexual offences in line with global trends
- **Improve working conditions of prosecutors** so they can more adequately support survivors of VAWG. Prosecutors lament poor working conditions and inadequate resources to build strong legal arguments as key factors that lower success in prosecuting perpetrators of VAWG.
- **Establish court user committees at courts** that will enable women to interact with the court officials and give feedback on their experiences within the justice system.

Based on inputs from Lee Webster, Womankind (See Annex 2 for full inputs) and ZWLA (2016)

It is important to note that the **greatest risks are of inadequate safeguards and mitigation strategies for backlash, which put individual women survivors, activists and groups at risk of violence**. Women survivors seeking to use the new legislation are often at high risk, and therefore a key lesson is the need to protect and support women through the legal process. For example, in Zambia, one of the greatest challenges to the DFID-funded fast track courts for VAWG survivors is that the courts initially lacked safe houses to protect survivors during the legal process. The 2017 Annual Review noted that "The government has provided support to safe houses in Kabwe, Chipata and Solwezi, and MoG has started developing guidelines for minimum standards with regards to construction of safe houses" (p.14). Similarly, research in Cambodia found that the use of domestic violence law is seen by survivors as a 'dangerous process' in itself. Safe houses are scarce, with survivors commonly told to 'go home' and face possible retaliation. The research observes that "the financial and human resources to guarantee the safe use of DV Law are not currently in place" (Brickell, 2014: 46).

**Women's rights groups and activists are also at high risk**, pushing for effective implementation of legislation, but often facing considerable backlash. The OECD have observed how the "shrinking of civil society space has entailed severe attacks on women's rights activists, groups and movements, which are at risk precisely because of their work to challenge gender norms and power structures" (Esplen, 2016: 6). Countries as diverse as Afghanistan, Brazil, Nigeria, South Africa and the USA have witnessed an increase in threats and violence against women's human rights defenders (WHRDs), with at least 31 WHRDs murdered as a direct result of their activism in 2015 (Womankind, 2017).

Donors and diplomatic agencies have provided some support to women's groups and movements, including DFID's £12million support through the UN Trust Fund to End Violence Against Women,<sup>38</sup> which supports organisations across the world to tackle gender-based violence, improve access to services such as legal assistance and healthcare and strengthen laws that protect women and girls.

**Strategic and well-coordinated funding from donors** can play a strong enabling role in supporting women's groups and civil society organisations to drive the effective implementation of legislative reform. Examples of promising practice include the Netherland's 'MDG 3 Fund: Investing in Inequality' which resourced 3,662 WROs, and the DFID-funded Manusher Jonno Foundation in Bangladesh, a challenge fund for NGOs working in rights and governance which has prioritised support to WROs working on VAWG (Nagarajan and Fraser, 2016).

<sup>38</sup> <https://www.gov.uk/government/news/the-uk-steps-up-to-lead-global-drive-to-tackle-violence-against-girls-and-women>

## 6. MONITORING AND EVALUTION

### What does good monitoring and evaluation look like in international efforts to support legislative reform and its effective implementation?

Ongoing efforts are required by governments and civil society to monitor and evaluate the effectiveness of VAWG legislation, to ensure its effective implementation (including any adverse effects) and to identify areas in which further reform is needed. For example, monitoring “may reveal gaps in the scope and effectiveness of the law, the need for training of legal professionals and other stakeholders, lack of a coordinated response, and unanticipated consequences of the law for complainants/survivors, thereby identifying areas in need of legal reform” (UN, 2010: 22).

The following M&E initiatives can all be used to drive change at national level.

#### 6.1 International and regional declarations and resolutions which include committees to monitor implementation

International and regional declarations create standards for global civil society to both advocate for and monitor national legislation (Klugman, 2017). Several international and regional declarations and resolutions include independent systems and processes to monitor implementation of legislation, for example:

- **The Committee on the Elimination of Discrimination against Women (CEDAW)** is the body of 23 independent experts from around the world on women’s rights that monitors implementation of the 1979 Convention on the Elimination of All Forms of Discrimination against Women.<sup>39</sup> The 189 countries which have ratified the convention, are obliged to submit regular reports to the Committee on how the rights of the Convention are implemented. The CEDAW reporting process also provides an opportunity for civil society - including women's organisations - to raise concerns and exert pressure on governments, via written shadow reports and meetings to highlight any gaps between ratification and compliance. During regular sessions, the Committee considers reports and makes general recommendations and suggestions. From 2004 to 2015, the CEDAW Committee had issued 32 decisions addressing gender-based violence. However the ability of the committee to influence legislative reform on VAWG is limited as engagement is optional and general recommendations made are not legally binding (Klugman, 2017).
- The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, 1994 (“Convention of Belem do Para”) was the first convention directed solely at VAWG (Klugman, 2017). **The Follow-up Mechanism to the Belém do Pará Convention (MESECVI)** - an independent system to monitor progress of the convention in the region – was established in 2004. It includes systematic and ongoing monitoring through exchange between State Parties and a Committee of Experts. MESECVI analyses progress and challenges in the implementation of the Convention. Civil society organisations – including Amnesty International, Human Rights Watch and a number of regional women’s rights organisations - participate in the monitoring process by presenting shadow reports to the Committee of Experts of the MESECVI on the implementation of the Convention of Belém do Pará by the states parties.<sup>40</sup>
- The Protocol to the African Charter on Human and Peoples' Rights, on the Rights of Women in Africa, also known as the **Maputo Protocol**, does not include a specific committee to monitor implementation (Klugman, 2017). Despite being a comprehensive document with several

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<sup>39</sup> The convention outlaws “discrimination against women in all its forms”, and obliges states to ‘take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices, which constitute discrimination against women’. (UNGA, 1979)

<sup>40</sup> <http://www.oas.org/en/mese cvi/about.asp>

innovative provisions, there have been criticisms that without a separate institute to oversee its implementation, “the protocol’s provisions remain mere words on paper” (Budoo, 2018).

## 6.2 National multi-sectoral mechanisms to monitor VAWG legislation

The UN Handbook for Legislation on VAWG (UN, 2010) recommends that legislation should: ‘Provide for the creation of a **specific, multisectoral mechanism** to oversee implementation of the legislation and report back to Parliament on a regular basis. The functions of such a mechanism should include: information gathering and analysis; interviews with key stakeholders<sup>41</sup>; and the proposal of amendments to legislation if necessary’. Such mechanisms are most effective when they engage different Government agencies and civil society, and seek input from survivors and service providers (UN, 2010). In Nigeria, DFID supported the establishment of VAWG observatories, based on a model of collaborative working which brings together representatives from government departments, civil society and security forces around the same table to find collective solutions for VAWG (see box below).

### **Observatory on VAWG breaking the culture of impunity in Nigeria: Case study of the DFID-funded Nigeria Stability and Reconciliation Programme (NSRP)**

As part of the DFID-funded Nigeria Stability and Reconciliation Programme’s (NSRP) (2013-2017) efforts to reduce the impact of VAWG in five conflict-affected areas of Nigeria, an online platform was established for reporting incidents of VAWG coordinated by a local civil society partner. The observatory aimed to measure trends in VAWG, increase reporting and facilitate and support opportunities for prevention and response. Response and referral of cases were managed by a voluntary Observatory Steering Committee (OBSTEC) comprised of local professionals from security agencies, local government, religious and traditional leaders, media and relevant civil society actors. The observatory has been supporting the implementation of the 2015 Violence against Persons act, by tackling barriers to reporting and prosecution, and coordinating response among multiple stakeholders. Since the observatories were established they have led to 47 successful prosecutions.

Source: NSRP (2017)

## 6.3 Women-led civil society

Civil society organisations, almost exclusively women-led and working from a women’s rights perspective, have been instrumental both in terms of bringing about reform and monitoring implementation (Klugman, 2017). In Brazil, research by the DFID-funded Pathways of Women’s Empowerment research programme highlighted how a consortium of feminist NGOs, women’s research centres and feminist networks are helping monitor the implementation of the Maria da Penha Law (2006) - the first Brazilian federal law to combat domestic violence against women. In response to the law, the *Observatório Lei Maria da Penha* (Maria de Penha observatory consortium - OBSERVE) was established. The women-led observatory tracks where and how the law is being applied. It found slow progress towards implementation in the first few years of the law, partly due to the lack of training, knowledge of the law, and record-keeping procedures among officials and clerical workers in the Police Stations for Assaulted Women’ (DEAMs) and the Domestic Violence Courts (Sardenberg, 2011; Pathways of Women’s Empowerment, 2011; DFID Research, 2011).

<sup>41</sup> Interviews with complainants/survivors, advocates, attorneys, police, prosecutors, judges, probation officers and service providers regarding complainants/survivors’ access to the legal system and the effectiveness of remedies, including obstacles faced by particular groups of women

The NGO Sisters for Change (SFC) focus on improving implementation of VAWG laws at the grassroots level, including in India and Indonesia, and have developed an effective model for monitoring compliance with domestic VAW laws and protocols (see below).

**The Sisters for Change Due Diligence Framework** is a simple **5-step monitoring mechanism** linking international human rights standards on VAWG with the lived realities of marginalized women and girls who experience discrimination and violence:

1. **Prevent:** States are required to create effective policies, systems and structures to address the root cause of violence against women.
2. **Protect:** States are required to develop appropriate legislative frameworks, policing systems and judicial procedures to protect women and create a safe environment. This includes safe reporting, and ensuring legal assistance, medical care and support services.
3. **Investigate:** the State has a duty to investigate any credible claim of serious violence, torture, inhuman or degrading treatment at the hands of a private individual. The duty is not conditional upon state actors being guilty, directly or indirectly, of misconduct.
4. **Punish:** States are required to prosecute and punish perpetrators effectively and promptly.
5. **Remedy and repair:** States are required to provide access to criminal and civil remedies, effective rehabilitation and support services, and compensation for physical and psychological injuries.

SFC works on multiple levels of change, and gathers quantitative and qualitative data from various sources, from legal cases undertaken by VAW Community Paralegals, to field surveys and questionnaires on women's health, life experiences and empowerment. SFC uses a variety of methodologies for monitoring and evaluation, including questionnaires, pre-post-tests, Most Significant Change stories and monitoring the impact of legal advocacy strategies at the community, national and international levels. They use this case evidence to hold public authorities at the local and national level to account and to advocate for improved implementation of domestic law. SFC have adopted Oxfam Woman's Empowerment Index as a framework for tracking the impact of the law on the lived realities of marginalised women. The model has been applied in:

- **India** to improve state implementation of domestic laws as part of a two-year project 'The power of law in her hands: Combating violence and discrimination against Dalit women in India' (2016-18).
- **Indonesia** to increase public support for legislative reform, as part of a three-year project 'Empowering Indonesian women domestic workers to understand their rights & challenge discrimination, violence and exploitation at work' (2017-2020).
- **England** to monitor and evaluate public authority responses to black and minority ethnic (BME) women survivors of VAWG in England. SFC are using the findings to influence legislative reform around the new UK Domestic Violence and Abuse Bill.<sup>42</sup>

Source: Expert Inputs from Sisters for Change (see Annex 2)

#### 6.4 National legislation that mandates data collection

Accurate and up-to-date data is crucial to monitoring implementation of VAWG legislation. According to the UN Handbook (2009), Legislation should:

- require that **statistical data be gathered at regular intervals** on the causes, consequences and frequency of all forms of violence against women, and on the effectiveness of measures to

<sup>42</sup> The recently published 2017 report '*Unequal Regard, Unequal Protection: Public authority responses to violence against Black and Minority Ethnic women in England*' can be found here <http://sistersforchange.org.uk/unequal-regard-unequal-protection/>

prevent, punish and eradicate violence against women and protect and support complainants/survivors; and

- require that such **statistical data be disaggregated** by sex, race, age, ethnicity and other relevant characteristics.

Several countries have legislatively mandated data collection on GBV, for example: Albania's Law on Measures Against Violence in Family Relations calls upon the Ministry of Labor, Social Affairs, and Equal Opportunities to maintain statistical data on domestic violence; Taiwan's 1998 law; and Mexico's Law on Access of Women to a Life Free of Violence (2007), which provides for a creation of a databank on gender based violence (Klugman, 2017).

## 6.5 Use of common indicators across countries for monitoring and driving legislative reform

Indicators should be used to assess progress across countries and over time, and have the dual role of identifying gaps and spurring legislative reform. The Women, Business and the Law's common dataset is publicly available and well-suited to track changes over time and draw comparisons between places (see box below).

### **How can data support legislative reform and implementation? Case study of Women, Business and the Law project**

Women, Business and the Law is a World Bank Group project that collects unique data on gender inequality in the law, including on protecting women from violence.<sup>43</sup> They publish a global report every two years and maintain an online database with country-level data and links to primary legal sources. The data has been used to drive legislative reform and implementation in several ways:

- **Data and knowledge sharing** – Women, Business and the Law worked with DFID support to assist in reforming the Family Code in DRC. Their data and research was used as a key driver for the legislative reform by showing, for example, that legacy laws in place in the country had now been widely reformed among neighboring countries and the positive effects of such changes.
- **Role and capacity building of civil society organizations** – CSOs are often the key voices in countries advocating for legislative reform. Training and capacity building initiatives can help enhance their advocacy efforts through sharing of data and knowledge on best practices and highlighting regional reforms. To this end, Women, Business and the Law has been engaging in capacity building exercises with CSOs in Sub-Saharan Africa to share the data and research, highlight regional reforms, results achieved, and the economic rationale for promoting legal gender equality.
- **Highlighting the impact of gaps in legislation and the economic rationale for promoting legislative reform** – Women, Business and the Law's research has found, for example, that life expectancy for women is higher where they are legally protected from domestic violence and that having laws that address domestic violence is associated with lower mortality rates for adult women and children under the age of 5.<sup>44</sup> Highlighting such impacts can help push for reform.
- **Spotlight on local issues through media and incidents** – In light of extensive media coverage of the launch of a Women, Business and the Law report in Brazil focusing on violence against women and child marriage, which highlighted the gaps in national law allowing for child marriage, a draft bill has been introduced in Congress to amend the Civil Code to outlaw child marriage in the country.
- **Sustained advocacy and spotlight on new laws** - training, awareness raising and capacity building programs for civil society organizations and the community is an important driver of implementation following legislative reform.

<sup>43</sup> Women Business and the Law examine laws on domestic violence against women and the existence and scope of laws on sexual harassment.

<sup>44</sup> Women, Business and the Law – Closing the Gap – Improving Laws Protecting Women from Violence

- **Monitoring mechanisms** – Monitoring gaps and reforms as well as setting targets can help drive legislative reform.

Expert contribution from: Paula Tavares, Women, Business and the Law Project

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