

## **Reducing Violence against Women: Justice Sector Perspectives**

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*It is said that we were all born under a star; when I watch the stars at night, I ask which of them is mine, so that I can change it for another one.*

**Quechua woman, Peru**

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### **Entrenched Discrimination**

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Violence against women (VAW) remains one of the world's most widely under-reported offenses in large part because most justice systems do not regard it as a criminal offense. Even where strong national legislation exists, enforcement is frequently weak and institutions inflict further trauma on survivors of violence through bias and mistreatment. In many low- and middle-income countries, penal codes consider sexual violence in particular as a matter of family honor rather than a violation of a woman's rights. Some criminal codes allow rapists to evade criminal responsibility by agreeing to marry their victim, other penal codes make prosecution and conviction unlikely because of tangled juridical procedures – or punish victims by prosecuting them for adultery or abortion. The emphasis on family preservation in Indian and Latin American family courts often leads judges to pressure women to reconcile with abusive partners. In some countries women have only limited rights to voluntary marriage, divorce, child custody and child support.

Complicating matters further; in some settings women have internalized norms of male superiority, making them especially reticent to seek help from law enforcement authorities. In many countries, including the most highly industrialized, victims hesitate to “bring shame” upon their families by pursuing legal redress for VAW.

### **Where Justice Falls Short**

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While empirical evidence linking criminal justice responses to the prevention of VAW remains somewhat weak, most researchers consider reforms in this realm critical; if nothing else, they argue, failure to sanction offenders sends a message that society condones violence. Extensive research on legislative reforms in low- and middle-income countries, however, yields the important lesson that changing the law constitutes only the first step of a long process.

A frequent additional response is to offer training for judges and judicial sector personnel, in order to improve services for VAW survivors. While this training improves services for VAW survivors, it does not address structural and systemic problems that plague many justice systems: corruption, lack of transparency, procedural delays, and often a lack of judicial presence in rural areas that translates into a lack of access to justice for poor people.

In addition, because justice systems typically focus on punishing perpetrators rather than restoring women's safety and well-being, criminal sanctions are not necessarily appropriate for women who want to end physical and sexual violence, but do not want to break up their families. This frequently stems from the fact that women and children may lose their major means of

economic survival when an abusive partner or parent receives jail time. Indeed, legal aid programs often find that women who consult them are seeking assistance with divorce, the division of marital property, child custody and child support – that is, the tools that enable them to leave a violent partner, rather than criminal prosecution.

## **Promising Practices**

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There are a number of ways that the justice sector may contribute to prevention of intimate partner violence and sexual violence. These include: improving national legislation on violence against women; strengthening the justice sector’s response to VAW; mobilizing communities in defense of women’s right to a life free of violence; and increasing knowledge about women’s rights.

### ***International rights agreements***

Over the past 30 years, countries around the world have signed international rights agreements that make specific reference to violence against women. For example, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1981), and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, “Convention of Belem do Para” (1994). By June 2004, 177 countries had ratified CEDAW, and 75 countries had signed the optional protocol. A study of CEDAW’s global impact noted numerous examples of court rulings and legal reforms—including those that dealt with violence against women—that made explicit reference to the CEDAW Convention (McPhedran, 2000).

### ***Legislative reform***

Recent criminal law reforms include revision of penal codes to strengthen criminal sanctions against perpetrators of family, domestic, and sexual violence; specific legislation to address domestic or sexual violence; reform of laws and policies that regulate criminal justice procedures; and stronger regulation of the obligations of public and private service providers. Significant progress has also been made in reform of civil law. For example, countries in Africa have passed laws raising the minimum age of marriage to 18 for women and men; granting women in customary marriages the same privileges and rights as women in formal marriages (including rights to property and child support); and introducing new enforcement policies to ensure compliance with maintenance and child support orders (e.g., Ghana, Kenya, and South Africa). In Latin America, there has been a long and continuing trend to improve women’s rights to divorce, control over marital property, and child support.

#### **Box 1. Examples of recent legislative reforms that address violence against women**

- Laws that criminalize and/or strengthen sanctions against perpetrators of family or domestic violence (e.g., South Africa)
- Revision of the penal code to allow public prosecution of sexual offenses (e.g. Peru)
- Introduction of marital rape as a criminal offense (e.g., Federal District, Mexico)
- Eliminating provisions that allow rapists to escape criminal sanctions by agreeing to marry the victim (e.g., Argentina and Peru)
- Laws that require police to inform rape victims about the possibility of legal abortion (e.g., Brazil)

Symbolically, these reforms represent a significant achievement in the effort to strengthen women’s rights and reduce violence against women. Some research has documented a positive

impact on intermediate outcomes such as increasing the number of women who report cases to the police. The overwhelming lesson from research on legislative reform in low and middle-income countries is, however, that changing the law is only the first step in a long process. Women often face social, economic or procedural barriers to accessing the justice system. Some of the legislation has been implemented poorly, if at all. Governments often fail to budget resources for implementing new legislation. Police often fail to investigate cases or to protect women in danger, and the judiciary is often unable or unwilling to enforce the laws. For example, South Africa passed new legislation in 1998 that strengthened criminal sanctions for violence by intimate partners and other types of perpetrators. It imposed obligations on the police to arrange shelter and medical treatment for survivors as well as to provide information about survivors' rights, and included specific sanctions for noncompliance. The law was a significant milestone. However, there were delays and difficulties in implementation, and a 2001 evaluation found that the government's failure to allocate sufficient resources to police, courts and support services had undermined the effectiveness of the Act.

### ***Joining forces: the police, the judiciary, forensic medicine, and legal aid and social services***

Evidence to date suggests that, while difficult to achieve, intersectoral collaboration is important for two basic reasons:

- Many women cannot access the justice system unless they first obtain information about their rights, about how to report cases to the police and/or how to find legal aid services. Consequently, nongovernmental organizations (NGOs) worldwide have integrated basic referral services and legal services for VAW survivors into community-based health programs, social services, and economic development programs.
- Increasing women's access to social services often makes it easier for police and courts to enforce laws. In South Africa, police found difficulty in enforcing orders of protection, prosecuting cases, and imposing jail sentences without community services to assist women and children with emergency shelter, long-term housing and economic support.

### ***Training justice sector personnel***

Whatever its current shortcomings, training to improve the knowledge, attitudes and practices of justice sector personnel regarding VAW is both constructive and urgently needed. The quality of the trainer's skill and the content imparts are critical. Training also appears to be most effective when all levels of personnel – especially high-level officials – participate. Moreover, training is effective when it is reinforced by change throughout the system, such as policies, procedures and continuous monitoring and evaluation. For example, ILANUD is a joint institute of the government of Costa Rica and the United Nations that works with governmental agencies throughout Latin America to improve the work of prosecutors, judges, lawyers, police and other professionals in criminal justice generally, and gender-based violence specifically (Villanueva, 1999; ILANUD, n.d.).

### ***Special police stations for crimes against women***

Pioneered first in Brazil, special police stations generally increase reporting of VAW, along with the likelihood that women will receive forensic examinations, counseling, emergency, and STI prophylaxis. However, women officers do not necessarily demonstrate better attitudes toward

VAW victims and special stations often suffer from insufficient funding and inadequate equipment, transport, training, staff or referral services.

The overwhelming lesson from research on reform of legislation in low- and middle-income countries is that changing the law is only the first step in a long process.

### ***Special courts, procedural reform and court services***

In addition to the widespread establishment of special courts for crimes against women and children and/or family matters, a number of countries have introduced closed court hearings for survivors of sexual violence; closed-circuit television testimony, and separate waiting areas for vulnerable witnesses or survivors; and new rules for prosecutorial evidence – such as Tanzania’s elimination of testimonial corroboration for rape.

### ***Campaigns to increase public awareness and support for women’s legal rights***

An essential component of effective legislative reform is to raise awareness of, and build support for, laws among the general population. Increasing access to justice requires that women know their rights and feel that they can exercise these rights. Thus, many NGOs have launched media and legal literacy campaigns to raise awareness of new legislation and encourage women to exercise their rights. Well-evaluated initiatives include **Soul City** (South Africa) and the **Nicaraguan Network of Women against Violence**. Both have demonstrated an impact on knowledge and attitudes of women’s rights through large population-based surveys, including raising awareness that violence against women is a crime and increasing knowledge of specific legislation.

### **Further Reading**

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Bott, Sarah, Andrew Morrison and Mary Ellsberg, *Preventing and Responding to Violence against women in Middle-and Low-Income Countries: A Global Review and Analysis*, World Bank Policy Research Working Paper 3618, the World Bank, Washington, DC, June, 2005

Heise, Lori, Mary Ellsberg and Megan Gottemoeller, 1999, “Ending Violence against Women”, *Population Reports*, Vol. XXVII, Number 4, Series L, Number 11, (available at [www.infoforhealth.org.pr/111/violence.pdf](http://www.infoforhealth.org.pr/111/violence.pdf))

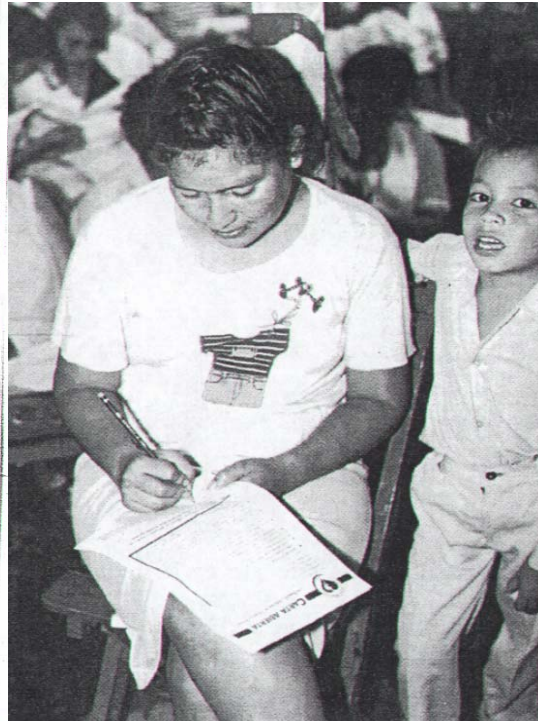
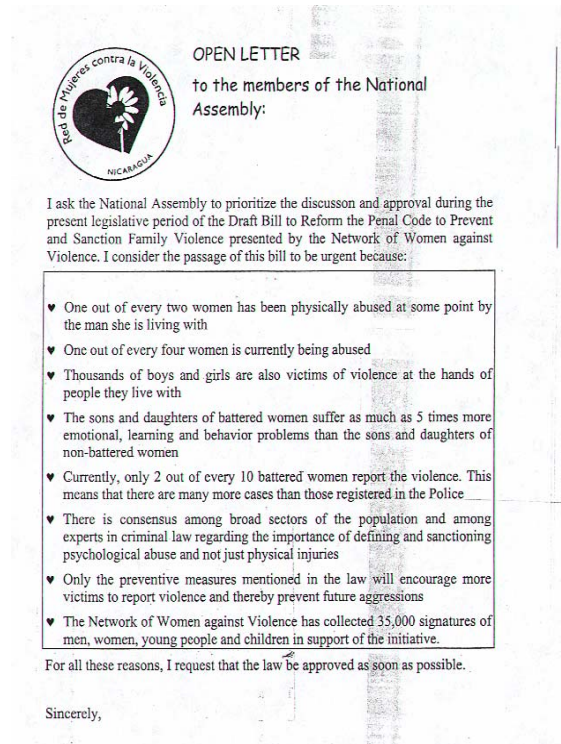
ILANUD. n.d. *The United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders. ILANUD Activities in 2002 and 2003 Work Programme*. San José, Costa Rica.

McPhedran, Marilou et al. 2000. *The First CEDAW Impact Study: Convention on the Elimination of All Forms of Discrimination Against Women. Final Report*. Center for Feminist Research and the International Women’s Rights Project, York University: Toronto, Canada.

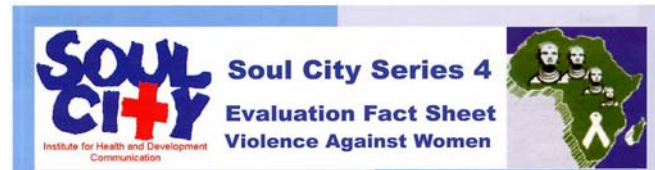
Morrison, Andrew, Mary Ellsberg and Sarah Bott. *Addressing Violence against Women in the Latin American and Caribbean Region: A Critical Review of Interventions*, World Bank Policy Research Working Paper 3438, the World Bank, Latin America and the Caribbean Region, Poverty Sector Unit, October 2004.

UNIFEM, *Not a Minute More: Ending Violence against Women*, UNIFEM, New York, 2003

Villanueva, Zarela. 1999. "Legislative and Judicial Reforms Regarding Domestic Violence: Costa Rica." In: Morrison, Andrew, and María Loreto Biehl, Eds. *Too Close to Home: Domestic Violence in the Americas*. Inter-American Development Bank: Washington, D.C.



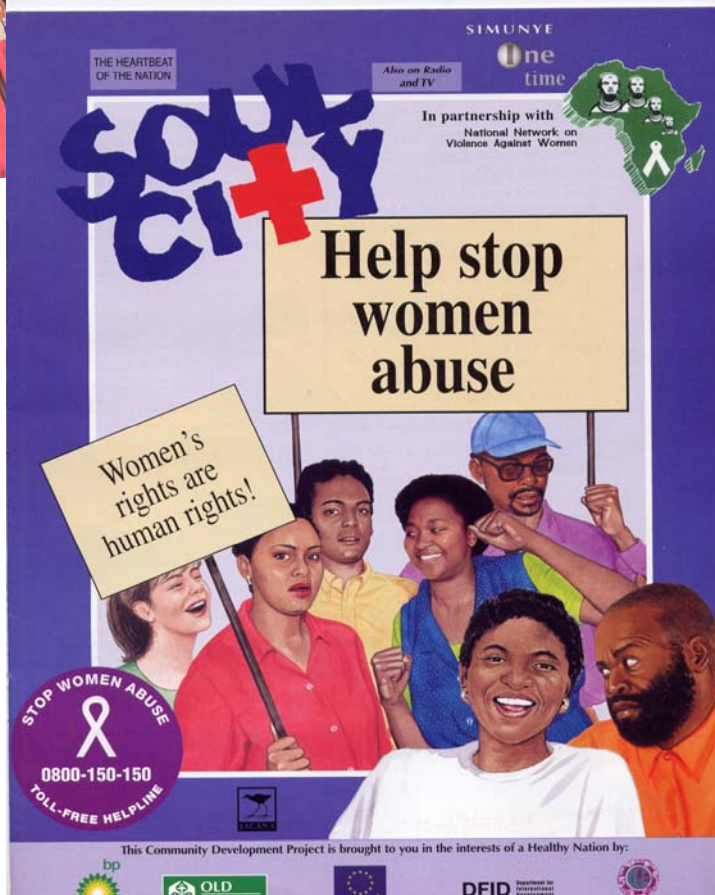
The text of a petition to members of the National Assembly, citing local research and asking for passage of a new domestic violence law. These letters were distributed in community meetings, parties, and through the newspapers. The Nicaraguan National Network of Women against Violence collected more than 16,000 signatures in the space of a few weeks. The new Domestic Violence law was passed unanimously in 1996.



Soul City series 4 reached 16,2 million people in South Africa, through Radio, TV or Print- 79% of the target audience.



The Soul City social and behaviour change approach



communities and the wider society. Soul City also bases its intervention on the Ottawa Charter health promotion model, appealing for healthy public behaviour, and creating a supportive environment for healthy behaviour are central to this. A human rights focus is maintained. The Soul City 4 evaluation documents the extent to which Soul City 4 succeeded or failed as a comprehensive health promotion intervention. Both quantitative and qualitative methodologies were used to increase the validity and reliability of results. All research projects as well as research management were contracted to external researchers. The entire study has been supported by an international and local group of experts in evaluation, communication, and entertainment-education, and was funded by the European Union.

DFID Department for International Development  
EUROPEAN UNION  
methodology: www.soulcity.org.za