**THE IMPACT OF VIOLENCE AGAINST WOMEN ON WOMEN’S ECONOMIC AND SOCIAL LIFE**

**Background Paper**

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1. **INTRODUCTION**

In the current paper, we shall examine the impact of violence against women “VAW” or “GBV – gender based violence”) on women’s economic and social life which concerns the impact of VAW/GBV in the community on their economic and social potential. Women face diverse forms of violence in the community, motivated by discrimination and misogyny, including murder, rape, gang rape, sexual assault and sexual harassment. They may also face state violence in the imposition of penalties and punishment for crimes against patriarchy, such as adultery, imposition of highly restrictive modesty codes, forced abortion or sterilization and violence by law enforcement officers.

This paper does not attempt to relate to the problem of VAW/GBV in its entirety or to relate to the numerous initiatives taken to combat VAW/GBV in all its facets by UN agencies, Special Rapporteurs on VAW/GBV, the CEDAW Committee, the treaty bodies including HRC, CAT, CRC and ESCRC; nor does it relate to more than a fraction of the enormously wide and rich literature on VAW/GBV which has emerged in less than 40 years. In its thematic framework the Working Group regards VAW/GBV as a cross-cutting issue. The impact of VAW/GBV in other spheres of women’s lives GBV – public and political life, the family and health care – will be examined in other thematic reports by the Working Group. The impact of VAW/GBV in any one of these spheres, and in particular violence against women and girls in the family, has a direct and devastating impact on all aspects of a woman’s life and creates an intolerable barrier to women’s fulfillment of their economic and social potential. Hence the focus on violence in the economic and social spheres cannot be understood in isolation from VAW/GBV in the other spheres of their lives and the discussion in this paper is to be understood in close integration with other issues of VAW/GBV, including for example, domestic violence, marital rape, incest and acquaintance rape, the commercialization of VAW/GBV in pornography and prostitution and trafficking for sexual exploitation.

It was not until the second half of the 1970s that a conceptual understanding developed that VAW/GBV was not merely a matter of individual criminal behavior but rather a gender-based manifestation of patriarchal domination, which has been protected variously by cultural norms and by legal rights to privacy in the family. Despite this conceptual recognition of VAW/GBV as a form of discrimination against women and of patriarchal domination, CEDAW did not expressly incorporate a prohibition of VAW/GBV. In the 1980s, academic articles began to critique the fact that VAW/GBV had been wrongly left out of the human rights framework.[[2]](#footnote-2)

In 1992 the CEDAW Committee adopted General Recommendation 19 on Violence against Women. This "was the instrument that brought violence against women unequivocally into the domain of international human rights law".[[3]](#footnote-3) "It asserts that gender-based violence against women is a form of discrimination within Article 1 of the Convention, despite the omission of any explicit article on this subject. It is 'a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men' and, as such, constitutes discrimination in and of itself and signifies lack of respect for women's integrity and dignity".[[4]](#footnote-4) GR 19 provides the first comprehensive international law definition of gender-based violence against women: "violence that is directed against a woman because she is a woman or that affects women disproportionately". "Violence against women encompasses acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty",[[5]](#footnote-5) "whether occurring in public or in private life".[[6]](#footnote-6) GR 19 distinguishes between violence occurring in the family and violence occurring within the community. GR 28 emphasizes that Article 2 of CEDAW is not limited to the prohibition of discrimination against women caused directly or indirectly by States parties, but also imposes a due diligence obligation to prevent discrimination by private actors.[[7]](#footnote-7)

In the following years, further resolutions regarding elimination of VAW/GBV were adopted – such as The General Assembly RES/48/104 Declaration on the Elimination of Violence against Women (1993). The Vienna Declaration and Program of Action recognized in 1993 the need for an integrated approach to the elimination of violence against women, requiring equality in many spheres of women’s lives: "Gender-based violence and all forms of sexual harassment and exploitation… must be eliminated. This can be achieved by legal measures and through national action and international cooperation in such fields as economic and social development, education, safe maternity and health care, and social support".[[8]](#footnote-8)

In this paper we will discuss the multiple ways in which violence within the community impedes women’s participation in economic and social life. We will examine VAW/GBV on the street and public transport, and in those socio-economic institutions on which women’s economic opportunity directly depends, particularly the workplace and educational institutions. We will then examine VAW/GBV in the community perpetrated or condoned by the state. Throughout this paper we seek to indicate good practices in eliminating the various forms of VAW/GBV in economic and social life.

1. **VIOLENCE IN THE COMMUNITY – THE STREET AND PUBLIC TRANSPORT**

VAW/GBV on the street and public transport severely curtails women’s freedom of movement, freedom of occupation and equal opportunity to participate in public, political, economic, social and cultural life. “The street” in this context is inclusive of service places and shopping areas, which women need to access in their daily lives. This kind of violence produces a fear factor which reaches beyond the victims and results in women refraining from economic, social and cultural activities in which they could otherwise take part. Furthermore, VAW/GBV on the street or public transport directly affects access to the workplace and educational institutions.

A systemic example of this form of violence, affecting among other things women’s transport to their workplaces, occurred in Ciudad Juarez, Mexico and was the subject of international investigation and of a decision of the CEDAW Committee. Over a period of years, there were systematic murders, abductions and rapes of hundreds of women, especially young women, who lived in extreme poverty and were employed in the Maquilas. The CEDAW Committee in an Optional Protocol decision found "that repetition of such serious acts of violence… constitute systematic violence 'founded in a culture of violence and discrimination, based upon women's alleged inferiority' that has developed specific characteristics 'marked by hatred and misogyny'".[[9]](#footnote-9) The Committee considered that “the establishment of the Maquilas and the creation of jobs mainly for women, without the creation of enough alternatives for men, has changed the traditional dynamic of relations between the sexes, which was characterized by gender inequality… This social change in women’s roles has not been accompanied by a change in traditionally patriarchal attitudes and mentalities, and thus the stereotyped view of men’s and women’s social roles has been perpetuated".[[10]](#footnote-10)

The Committee found that the Mexican government had not taken necessary measures to prevent the violence and had condoned a "culture of impunity".[[11]](#footnote-11) It provided a framework of criminal, social and cultural responses, required to comply with the Convention obligations of due diligence that included:

* 1. Investigation of the crimes, including punishment of the perpetrators;
  2. Support for the victims’ families;
  3. Effective dialogue with NGOs and protection of HRDs;
  4. Prevention of violence, including guaranteeing security and promoting the human rights of women;
  5. Provision of the necessary resources - financial, human and organizational - to combat violence in Ciudad Juarez.

State legal systems have largely failed to address the harms caused by sexual violence and harassment women face on the street and public transport. Indeed, as demonstrated in the data from Women, Business and the Law research, **only 8 of the 100** economies examined have enacted laws on sexual harassment specifically in public spaces.[[12]](#footnote-12) Some of these 8 countries are examples for good practices in dealing with the problem of VAW/GBV in the public arena in the framework of the law. In Bangladesh, for instance, section 76 of the Dhaka Metropolitan Police Ordinance (1976)[[13]](#footnote-13) declares that:" Whoever … wilfully presses or obstructs any woman in a street or public place or insults or annoys any woman by using indecent language or making indecent sounds, gestures, or remarks in any street or public place, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand taka, or with both". In Benin[[14]](#footnote-14) and Zambia[[15]](#footnote-15), the definition of VAW includes acts that result in physical, sexual or psychological harm or suffering to the women, including threats of such acts, and coercion or arbitrary deprivation of liberty, whether occurring in **public** or private life. Article 14 of the [Canadian Human Rights Act](http://laws-lois.justice.gc.ca/PDF/H-6.pdf) considers discriminatory the harassment of an individual in the provisions of goods, services, facilities or accommodation customarily to the general public.[[16]](#footnote-16) In Ecuador, article 5 of the [Ordenanza Municipal del Distrito Metropolitano de Quito. N. 235](http://www7.quito.gob.ec/mdmq_ordenanzas/Ordenanzas/ORDENANZAS%20MUNICIPALES%202012/ORDM-0235%20%20%20%20ERRADICACION%20DE%20LA%20VIOLENCIA.pdf) enables sanctioning street harassment of women, specifically in public transportation.[[17]](#footnote-17) Fiji, as well, prohibits differentiating or harassing a person by reason of a prohibited ground of discrimination in the "access by the public to any place, vehicle, vessel, aircraft or hovercraft which members of the public are entitled or allowed to enter or use".[[18]](#footnote-18)

Furthermore, there is evidence of some good practice by municipalities, UN agencies, NGOs and communities to prevent street violence and make public spaces safer for women.[[19]](#footnote-19) Good practices for safe cities have been developed mainly at the municipal level, in some cases with the assistance of the state or federal government.[[20]](#footnote-20) Many of the local efforts were supported by the UN and other global bodies. For instance, The Global Safe Cities Initiative has provided invaluable assistance to Quito, Ecuador; New Delhi, India; Kigali, Rwanda; Port Moresby, Papua New Guinea and Cairo, Egypt.[[21]](#footnote-21) One of the mechanisms utilized to increase women’s safety is employing personnel who are specially trained to deal with gender-based violence. At the Gerehu Market in Port Moresby, Papua New Guinea, there is a specialized police unit that makes the area safer for female merchants. Implemented two years ago as part of the UN Women’s Safe City Port Moresby Programme, according to the manager of UN Women Safe Cities Global Initiatives, the project has already "mobilized and trained grassroots women and youth, and sensitized relevant divisions of the local government and the judiciary".[[22]](#footnote-22) Another example is the Municipal Urban Guard (GUM) in Rosario, Argentina that "promotes safety and urban coexistence in public city spaces (streets, squares, public buildings)".[[23]](#footnote-23) Consisting of the same number of unarmed male and female officers, trained in mediation, persuasion, dissuasion techniques to deal with gender-based violence, GUM patrols the city, provides assistance to residents in need and promotes solutions such as provision of sufficient street lighting.[[24]](#footnote-24)

Municipalities can also make the street safer with infrastructural changes. Montreal, Canada[[25]](#footnote-25) identified a series of factors regarding the physical construct of a space to make it safer for women: sufficient signposting, sufficient lighting, open spaces that extend the field of visibility and removal of hidden spots where potential predators could lurk.[[26]](#footnote-26) Public spaces should be full of people, especially at night,[[27]](#footnote-27) and so should be designed to facilitate various forms of activities, which will encourage people to remain in the area.[[28]](#footnote-28) There should be formal surveillance and access to help, including security guards, public telephones and surveillance cameras, prominently displayed, so that potential predators are deterred from attacking.

Technology has come to play an increasingly important role in making women safer on the street. Brazil, for example, has promoted the use of cell phones to map safety risks in low-income communities in Rio.[[29]](#footnote-29) Women use an application on their phones to map faulty infrastructure or services, obscured walking routes and areas with lack of lighting, and connect them with police stations that specialize in GBV. This enables the women to establish action plans to prevent and respond to violence.[[30]](#footnote-30)

Public transportation, which women must use to get to work, educational institutions, or run errands, often poses one of the greatest threats.[[31]](#footnote-31) In 2014, in India, the gang rape and murder of a female university student on a bus, with the cooperation of the driver, produced public demonstrations and international concern[[32]](#footnote-32) that led the Indian government to take radical steps to increase the criminal penalties for VAW/GBV. This included the enacting of the Criminal Law (Amendment) Act, 2013, that punishes gang rape or those who guilty of causing death or leaving a rape victim in a permanent vegetative state with "rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean the remainder of that person’s natural life or with death"[[33]](#footnote-33). In Cairo, Egypt, a study revealed "that public transportation ranks high on the list of unsafe spaces, and is the second-highest place where sexual harassment takes place, with public streets being the highest".[[34]](#footnote-34) UN Women launched a Transit Campaign in Cairo in 2012 in partnership with three youth groups to encourage Egyptians to take a stand against violence and harassment on public transport.[[35]](#footnote-35) One of the youth groups re-enacts sexual harassment incidents in metro-cars (without notifying the other passengers it is a re-enactment until the end) to gauge passengers’ reactions and raise awareness about the seriousness of such incidents.[[36]](#footnote-36) A second youth group works with micro-bus drivers to teach them how to make their buses "harassment free".[[37]](#footnote-37)

The point of getting off public transportation onto the street may also pose a problem and so Montreal and Toronto, Canada have implemented a "Between Two Stops" Service, in which women and girls can elect to get off the bus in between the designated stops at night to minimize the distance they have to walk in the dark.[[38]](#footnote-38)

1. **VIOLENCE AGAINST WOMEN IN SOCIO-ECONOMIC INSTITUTIONS**

VAW/GBV, including rape and indecent acts, is, when it occurs in socio-economic institutions, often treated under the heading of **sexual harassment**. In some instances, violent criminal offences such as rape and even gang rape, when they have occurred in the workplace, have been classified as sexual harassment, as in the 1990's in India when a women social worker, Bhawani Devi, was gang raped and the court found the perpetrators guilty of sexual harassment[[39]](#footnote-39). In the aftermath of the Bhawani Devi gang rape case, NGO’s filed a class action to demand suitable methods for prevention of sexual harassment of working women in all work places through judicial process, to fill the vacuum in existing legislation. The result was the Supreme Court Vishakha Guidelines. According to these guidelines the employer has to prevent the acts of sexual harassment, to provide for resolution, settlement or prosecution of acts of sexual harassment, and to take appropriate disciplinary action.[[40]](#footnote-40)

It is important to recognize the fact that the general criminal prohibition of sexual violence should extend into all areas where it is perpetrated and so no special legal regulation should be required in order to apply the prohibition and prosecute the offence in the workplace or in other social-economic institutions. The offence of sexual harassment adds an additional category of prohibition, beyond the criminal offences of rape and indecent acts, outlawing kinds of behavior which are more widely defined as offences in the institutional context in which they occur. Prohibition of these kinds of behavior is aimed to prevent abuse of power to obtain sexual benefits from those who are subject to authority in the socio-economic hierarchy. It may also add requirements for disciplinary measures by the employer to prevent and punish violence which occurs in the workplace. These context specific measures should not detract from the full force of the criminal procedure and punishment for VAW/GBV.

The CEDAW Committee addressed VAW/GBV in the context of employment in the case of *Vertido v. The Philippines* in 1996.[[41]](#footnote-41) Karen Tayag Vertido worked as the Executive Director of the Davao City Chamber of Commerce and Industry in the Philippines.  She alleged that the President of the Chamber had raped her when she accepted his offer of a lift home following a business meeting in the evening.  The Philippines Court acquitted. Ms. Vertido submitted a communication to the CEDAW Committee[[42]](#footnote-42), alleging that the court decision "was grounded in gender-based myths and misconceptions about rape and rape victims", without which the accused would have been convicted[[43]](#footnote-43). The Committee regarded the national court’s grounds for acquittal of the crime of rape as incorporating "references to stereotypes about male and female sexuality and as being more supportive of the credibility of the alleged perpetrator than for the creditability of the victim".[[44]](#footnote-44) The committee "clarified that rape is to be understood as violating a women's right to 'personal security and bodily integrity'", and "recommended a legislative definition of rape that places 'the lack of consent at its centre' and removes requirements that sexual assault be committed by force or violence…".[[45]](#footnote-45) It called for the government to pay compensation to the author and take measures to ensure effective and impartial legal procedures regarding rape. It should be noted, that although the focus of this case was gender stereotyping in rape trial as a violation of CEDAW, this case was in a workplace context.

Legislation prohibiting sexual harassment has generally focused on preventing sexual harassment in the workplace. The development of legal prohibition of sexual harassment in the workplace can serve as a model for the prohibition of sexual harassment in other socio-economic institutions and in the community, particularly educational and service institutions, where similar measures are required. The development of the conceptual framework of sexual harassment as being not only discrimination against women and girls but also a violation of their human **dignity**, allows a broader application of sexual harassment not only in the workplace, but in other public non-workplace settings in which discrimination may not found an appropriate cause of action.[[46]](#footnote-46)

1. ***The Workplace***

Sexual harassment in the workplace was only given a name and prohibited as employment discrimination in the United States in the 1970s. During the following decades, governments, organizations and workplaces adopted the term "sexual harassment" and started to take action against its occurrence in the workplace in various ways.[[47]](#footnote-47) Many states have adopted some form of legislation at the national level against sexual harassment in the workplace. Data from Women, Business and the Lawresearchshow that **78 of the 100** economies covered have laws addressing sexual harassment in employment and it is criminalized in 52 of these economies[[48]](#footnote-48).

In 1989 the CEDAW Committee, in GR 12, recognized sexual harassment as a form of violence against women. Following this, in GR 19, the Committee characterized gender-based violence as a type of sex discrimination and therefore a breach of CEDAW. This has led the way to further development of prohibition of sexual harassment, for instance in the 1993 General Assembly Resolution "The Declaration on the Elimination of Violence against Women", and in the 1995 Beijing platform.

GR 19 identifies the workplace as a site of violence and sexual harassmentof women. Sexual harassment denies women's equality in the workplace and is discriminatory. It humiliates them, jeopardizes their well-being and severely violates their dignity.

The definition of sexual harassment in GR 19, as well as in other country specific legislation and academic writing, outlines two broad classes of prohibited behavior:

1. **Quid pro quo** – behaviors of employers that extort sexual cooperation by means of subtle or explicit threats of job-related consequences.
2. **Hostile environment** – sex related behaviorsthat are unwelcome, offensive and humiliating that damage and embitter the employee’s working conditions.

In country legislation, unlike in GR19, the prohibition of sexual harassment is generally gender neutral and hence applies to male as well as female victims. Men have been known to report workplace sexual harassment of both classes mentioned above. Nevertheless, women remain the group that is most usually exposed to sexual harassment carried out by men[[49]](#footnote-49). We could not find an inclusive global information regarding percentage of victims, but the existing data indicate for example that between 40 and 50 per cent of women in the EU experience "unwanted sexual advances, physical contact, verbal suggestions or other forms of sexual harassment" at work, and in Asia-Pacific countries 30 to 40 per cent of women workers report some form of harassment (verbal, physical or sexual).[[50]](#footnote-50) ILO research has suggested that the women who are most vulnerable to sexual harassment in the workplace are young, financially dependent, single or divorced or have a migrant status in the community in which they live[[51]](#footnote-51). In addition, some forms of work create particular vulnerability – for example domestic work, especially for women migrant workers.[[52]](#footnote-52)

1. ***Non-Workplace Settings***

Development regarding sexual harassment focused on the workplace, while in real-life women are also exposed to sexual harassment in many other institutional settings, in the socio-economic arena, especially in educational and service providing institutions, and in their contact with police and armed forces. In this sub-section we will mainly relate to the education system. In the following section - Violence Condoned or Perpetrated by the State – we will elaborate on army and police forces.

While rape, gang rape, indecent acts and other forms of physical sexual assault in the public arena are a matter for the criminal law, only few countries have made express provision to prohibit all forms of sexual harassment outside the workplace. Nevertheless, there are some good examples for legislation on non-workplace harassment. For example, the Israeli law prohibits sexual harassment as a general offence in all contexts and, in addition, specifically prohibits sexual harassment in situations in which there is an abuse of authority, as in the workplace and in medical facilities, educational institutions, security services or religious settings.[[53]](#footnote-53) In abuse of authority cases, the penalty is a three year term of imprisonment and the offence will be committed even if the object of the harassment does not clearly reject the sexual proposal. The law conceptualizes sexual harassment as primarily an injury to human dignity, instead of associating it exclusively with sex-based discrimination.

***The Education System:***

A major area of concern regarding sexual violence and harassment is the education system. School-related gender-based violence (SRGBV) refers to acts of sexual, physical or psychological violence inflicted on children in and around schools because of stereotypes and roles or norms attributed to or expected of them because of their sex or gendered identity.[[54]](#footnote-54) These gender stereotypes, when superimposed on the unequal power relations between adult teachers and school children leave schoolgirls especially vulnerable to sexual harassment, rape, coercion, exploitation and discrimination from teachers and staff.[[55]](#footnote-55) SRGBV or fear of it can have profound consequences on students’ participation, achievement, and continuation in school, particularly for girls. Sexual harassment and violence form a major barrier to access education and to the ability to benefit from it,[[56]](#footnote-56) and may influence parents’ decision to keep their children out of school. The consequences of SRGBV on the health and psychosocial well-being of children can be severe, and may include: "low self-esteem, depression, increased risk of suicide, high-risk sexual and drug-using behaviour, poor physical health, and post-traumatic stress disorder".[[57]](#footnote-57) Furthermore, "adolescent pregnancy can lead to the abandonment of education and complications during birth".[[58]](#footnote-58)

A study on bullying, teasing and sexual harassment in school in the United States found that 83 per cent of girls in grades 8 through 11 in public schools experienced some form of sexual harassment.[[59]](#footnote-59) In Sub-Saharan Africa countries, gender-based violence towards both male and female students was found to be common at schools. Field studies in seven African countries indicated that, "when asked about early pregnancy, 16 per cent of children in Togo named a teacher as responsible for the pregnancy of a classmate; this figure was 15 per cent in Mali and 11 per cent in Senegal. In Ghana, 75 per cent of children cited teachers as the main perpetrators of violence in school; in Senegal, the figure was 80 per cent".[[60]](#footnote-60) In Malawi, a 2006 study of schoolgirls found that "50 per cent of the girls said they had been touched in a sexual manner without permission, by either their teachers or fellow schoolboys".[[61]](#footnote-61) In the Latin-American region, school-based surveys in Chile, Costa Rica, Panama and Peru, found that between 5 and 40 per cent of adolescent girls reported experience of sexual abuse.[[62]](#footnote-62) "Girls in the Dominican Republic, Honduras, Guatemala, Mexico, Panama and Nicaragua reported being victims of sexual coercion from teachers, sometimes under the threat of their grades suffering if they do not accept sexual advances".[[63]](#footnote-63) In Ecuador "a 2002 World Bank study found that 22 per cent of adolescent girls reported being victims of sexual abuse in educational settings".[[64]](#footnote-64)

In the Asia-Pacific region, there is a growing amount of evidence highlighting sexual violence and abuse on the way to and from schools, for example in Papua New Guinea, female students were found to be fearful of sexual assault and violence both in and on their way to school. This is a key factor affecting enrolment of girls.[[65]](#footnote-65) In Fiji, girls are at risk of being sexually blackmailed "in return for transport to school, school fees and other costs associated with their education".[[66]](#footnote-66) Schools themselves were found to be unsafe, as qualitative data from Indonesia, Mongolia and the Philippines indicate, and "government officials may view this as less important than dropout rates or drug addiction"[[67]](#footnote-67). There are also several small studies from Bangladesh, India, Nepal and Pakistan that provide "examples of inappropriate sexualized behaviour by teachers towards girls, with several reports of teachers raping schoolgirls in India and serious sexual abuse by teachers in Nepal".[[68]](#footnote-68)

Furthermore, there have been incidents, in which armed groups who ideologically oppose to education of girls, violently attacked, intimidate and even kill girl students, teachers of girls or schools for girls.[[69]](#footnote-69) In this context, the story of Pakistani young girl Malala Yousafzai is a lesson and an inspiration. Malala, a school girl under the rule of the Taliban, advocated for girls rights for education. She survived an attempt to assassinate her life, which provoked national and international support of her and her cause. Malala has received the support of the UN Special Envoy for Global Education,[[70]](#footnote-70) was honored with prizes and was nominated in February 2014 for the Nobel Peace Prize.

SRGBV is likely to increase when there are poorly designed or managed physical infrastructure since they increase the vulnerability of students, especially girls. Sexual violence is most likely to occur in or near latrines, in empty classrooms or dormitories, on the perimeter of the school grounds, or en route to and from school. The risk of abuse is heightened when these areas are inadequately maintained (for example, having dim lighting or broken locks).[[71]](#footnote-71)

Another form of SRGBV that is especially relevant in our days is cyber-bullying: in developed countries such as New Zealand, Japan, Australia and North America, the expanding access to online technologies is driving new forms of SRGBV violence, such as cyber-bullying based on sexual orientation[[72]](#footnote-72) – girls are often subject to online harm from friends, classmates, or boyfriends[[73]](#footnote-73), including severe and harmful violation of their right to sexual privacy, which has led to a growing number of suicides.

Times of conflict increase the risk of sexual abuse for girls and boys. This is especially true for teenage girls, when fear of abuse in schools that are used as barracks or bases by armed forces or groups, brings them to drop out or to have their families pull them out of school. When sexual violence is used as a weapon of war, the consequences of rape put girls school at severe risk and in countries like the Central African Republic, Chad, Democratic Republic of the Congo, Liberia and Sudan, the fear of the armed conflict and ethnic violence insecurity has prevented millions of girls from attending school.[[74]](#footnote-74)

The Convention on the Rights of the Child (CRC) and CEDAW establish an international legal framework to assure girls (and boys) the right to be free from all forms of violence, including in the education system. Accordingly, some countries have introduced laws and policies aimed at eliminating violence in schools, or at protecting girls from violence in their communities.[[75]](#footnote-75) Data from Women, Business and the Law research[[76]](#footnote-76) show that 32 of 100 economies have specific legal provisions addressing sexual harassment in schools. However, many countries still lack such laws, and even if they exist, they are often not implemented or enforced, and the reporting and accountability mechanisms are often weak and do not protect victims’ privacy and rights.[[77]](#footnote-77)

The Israeli law, discussed above, applies sexual harassment provisions to the educational environment. In Africa, Swaziland set a good practice[[78]](#footnote-78) in response to a 2007 survey which showed that more than a third of Swazi girls had been victims of sexual violence before the age of 18. The government established new policies that publicized the issue of sexual violence, set up safe schools, confidential school reporting mechanisms, capacity building for police, child-friendly courts, a public register of sexual offenders, and prevented previous sex offenders from becoming teachers. It also extended the definition of rape to include young men and boys. The Swazi experience has inspired the Together for Girls initiative in Kenya, Tanzania and Zimbabwe.[[79]](#footnote-79)

Another good practice is to be found in Jamaica, which developed a plan to monitor the prevalence of violence by sex, age and type of crime, passed several laws to address violence in early childhood, and restructured and reformed its police and judicial system in order to provide support services to victims and to eliminate impunity for perpetrators. Jamaica has also set funds to implement policies in the Ministry of Education that are aimed at preventing violence and supporting vulnerable youth. It has also established a Task Force on Educational Reform and the Education Transformation Program that focus on training teachers and school leadership to respond to violence and identify anti-social behavior.[[80]](#footnote-80)

1. **VIOLENCE CONDONED OR PERPETRATED BY THE STATE[[81]](#footnote-81)**

The State, through its agents or its public policy, can perpetrate different kinds of violence – physical, sexual and psychological – against women.

The criminal law deserves special mention in addressing elimination of VAW/GBV. By means of the criminal law the state may directly victimize women. The criminal law may either target women by criminalizing behaviors which are not criminalized or punished in the same way when performed by men or by not criminalizing behavior in which women are the sole or main victim.

The criminalizing of women’s sexual and reproductive behavior in some states includes: prohibition and punishment of abortion, including pregnancy resulting from rape and therapeutic abortion to save the woman’s life; prohibition of adultery, including sexual relations of unmarried women or girls, with or without their consent and punishment including by sentences of stoning; [[82]](#footnote-82) forced sterilization and forced abortion; sanctioning forced marriages; and punishment for violation of restrictive modesty codes. For example, on August 2013 Amira Osman Hamed, a 35-year-old Sudanese civil engineer and women's rights activist, was arrested by the Public Order Police at the outskirts of Khartoum. She was charged under Article 152 of Sudan's 1991 Criminal Code with 'indecent or immoral dress' and faced the possibility of receiving up to 40 lashes.[[83]](#footnote-83) The women of Sudan, supported by NGO's and UN personal, have begun protesting against the threat women face under the code and established movements like "One Billion Rising Khartoum" and "[We Will Not Be Silenced](http://activismagainstpublicorder.wordpress.com/)".[[84]](#footnote-84) These protests form a good practice that should be noted and supported.

Non-criminalization of behavior in which women are the sole or main victim includes: impunity for marital rape; impunity or reduced sentences for domestic violence, honor killings or crimes of passion; impunity for child or forced marriage; or failure to prosecute rape. Thus, the In-depth Study on All Forms of Violence against Women Report of the UN Secretary General finds that states may condone VAW/GBV through inadequate laws or through ineffective implementation of laws, effectively allowing perpetrators of violence against women impunity for their acts.[[85]](#footnote-85)

State agents[[86]](#footnote-86) may commit violence while performing their duty. The state is directly responsible for acts carried out by its uniformed agents. This aspect of state violence is discussed in the Lowenstein Project background paper.

1. **CONCLUSION AND RECOMMENDATIONS**

* States must take preventive measures, deter and severely punish all forms of violence and sexual harassment against women in the public arena, including the street, transport, workplaces and educational institutions, whether it is perpetrated by state agents or by private persons.
* States must eliminate all criminal laws which discriminate against women by punishment of behaviours which are not punished when performed by men or which involve forcible invasion of women’s physical integrity and autonomy.

1. This research paper was written under the direction of Professor Frances Raday (Mandate Holder, UN Human Rights Council, Chair WG on Discrimination against Women; President of Concord Research Center for Integration of International Law in Israel, The Haim Striks School of Law, COLMAN and Professor of Law, Hebrew University, Jerusalem Israel (emerita)). [↑](#footnote-ref-1)
2. See for example Felice Gaer, "Rape as a Form of Torture: The Experience of the Committee against Torture", Cuny Law Review 15 (2012), 293. [↑](#footnote-ref-2)
3. Marsha Freeman et al. eds., The UN Convention on The Elimination of All Forms of Discrimination Against Women – A Commentary (Oxford, 2012), 444. [↑](#footnote-ref-3)
4. Ibid, 450-451. [↑](#footnote-ref-4)
5. Ibid, 453. [↑](#footnote-ref-5)
6. The General Assembly RES/48/104 Declaration on the Elimination of Violence against Women (1993), Art. 1. [↑](#footnote-ref-6)
7. General recommendation No. 28, forty-seventh session, 2010: The Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (2010). [↑](#footnote-ref-7)
8. The Vienna Declaration and Program of Action (1993), para. 18. [↑](#footnote-ref-8)
9. Supra note 3, 457. [↑](#footnote-ref-9)
10. Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico (CEDAW/C/2005/OP.8/MEXICO) (2005), 9. [↑](#footnote-ref-10)
11. Ibid. [↑](#footnote-ref-11)
12. The World Bank, Women, Business and the Law 2014 - Removing Restrictions to Enhance Gender Equality - Key Findings (2013), accessed March 2, 2014, http://wbl.worldbank.org/~/media/FPDKM/WBL/Documents/Reports/2014/Women-Business-and-the-Law-2014-Key-Findings.pdf. These eight countries are: Bangladesh, Benin, Canada, Ecuador, Ethiopia, Fiji, Pakistan and Zambia – see "Protecting Women from Violence", Women, Business and the Law, accessed March 2, 2014, http://wbl.worldbank.org/data/exploretopics/protecting-women-from-violence#sexual-harassment. For further reading regarding harassment of women in public spaces see Cynthia Grant Bowman, "Street Harassment and the Informal Ghettoization of Women", Harvard Law Review 106 (1993), 517. [↑](#footnote-ref-12)
13. Dhaka Metropolitan Police Ordinance, accessed April 29, 2014, http://bdlaws.minlaw.gov.bd/print\_sections\_all.php?id=511. [↑](#footnote-ref-13)
14. Loi n°2011-26 du 09 janvier 2012 Portant prévention et repression des violences faites aux femmes, Art. 2, accessed April 29, 2014, http://www.bj.undp.org/content/dam/benin/docs/emancipationdesfemes/violences-faites-aux-femmes.pdf . [↑](#footnote-ref-14)
15. Anti-Gender-Based Violence Act, 2011, Sec. 3(1), accessed April 29, 2014, http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Zambia/zambia\_violence\_2011\_en.pdf. [↑](#footnote-ref-15)
16. [Canada Human Rights Act](http://laws-lois.justice.gc.ca/PDF/H-6.pdf), accessed April 29, 2014, http://laws-lois.justice.gc.ca/PDF/H-6.pdf. [↑](#footnote-ref-16)
17. [Ordenanza Municipal del Distrito Metropolitano de Quito. N. 235](http://www7.quito.gob.ec/mdmq_ordenanzas/Ordenanzas/ORDENANZAS%20MUNICIPALES%202012/ORDM-0235%20%20%20%20ERRADICACION%20DE%20LA%20VIOLENCIA.pdf), accessed April 29, 2014, http://www7.quito.gob.ec/mdmq\_ordenanzas/Ordenanzas/ORDENANZAS%20MUNICIPALES%202012/ORDM-0235%20%20%20%20ERRADICACION%20DE%20LA%20VIOLENCIA.pdf. [↑](#footnote-ref-17)
18. Human Rights Commission Decree (No. 11) 2009, Sec. 19(h), accessed April 29, 2014, http://www.paclii.org/fj/promu/promu\_dec/hrcd2009280/. [↑](#footnote-ref-18)
19. This part uses information from the background paper prepared for the Working Group by the Lowenstein Human Rights Project at Yale Law School: "Good Practices for Addressing Sexual Violence against Women". [↑](#footnote-ref-19)
20. Liliana Rainero, Maite Rodigou & Soledad Pérez, Tools for the Promotion of Safe Cities from the Gender Perspective (2006), 8, accessed March 2, 2014, http://www.redmujer.org.ar/pdf\_publicaciones/art\_18.pdf. [↑](#footnote-ref-20)
21. UN Women, Cities Working Across the Globe to Prevent and Reduce Sexual Harassment And Violence in Public Spaces, accessed March 2, 2014, http://saynotoviolence.org/sites/default/files/Brief%20Safe%20Cities%20Global%20Initiative%20CSW.pdf [↑](#footnote-ref-21)
22. UN Women, Breaking the Vicious Circle of Violence in Local Markets in Papua New Guinea, accessed March 2, 2014, http://www.unwomen.org/en/news/stories/2012/11/breaking-the-vicious-circle-of-violence-in-local-markets-in-papua-new-guinea. [↑](#footnote-ref-22)
23. Supra note 20, 26. [↑](#footnote-ref-23)
24. Ibid. [↑](#footnote-ref-24)
25. Ibid, 72. [↑](#footnote-ref-25)
26. Ibid, 73. [↑](#footnote-ref-26)
27. Ibid, 75. [↑](#footnote-ref-27)
28. Ibid. [↑](#footnote-ref-28)
29. William Thorpe, "How Can we Make Cities Safer for Women?", Cities Today, August 15, 2013. [↑](#footnote-ref-29)
30. Ibid. [↑](#footnote-ref-30)
31. Tim Halbur, "Is Public Transportation Scary for Women?", February 17, 2010 , accessed March 2, 2014, http://grist.org/article/women-transit-and-the-perception-of-safety/. [↑](#footnote-ref-31)
32. UN Women, "UN women condemns gang rape of Delhi student", December 20, 2012, accessed April 29, 2014, http://www.unwomen.org/en/news/stories/2012/12/un-women-condemns-gang-rape-of-delhi-student/. [↑](#footnote-ref-32)
33. Criminal Law (Amendment) Ordinance, 2013, accessed April 29, 2014, http://www.pib.nic.in/newsite/erelease.aspx?relid=91979. [↑](#footnote-ref-33)
34. UN Women, From Play-acting to Real-Life Action- a Journey to End Harassment on Public Transit in Egypt, February 27, 2013, accessed March 2, 2014, http://www.unwomen.org/en/news/stories/2013/2/from-play-acting-to-real-life-action. [↑](#footnote-ref-34)
35. Ibid. [↑](#footnote-ref-35)
36. Ibid. [↑](#footnote-ref-36)
37. Ibid. [↑](#footnote-ref-37)
38. Supra note 20, 68. [↑](#footnote-ref-38)
39. Supra note 3, 459. [↑](#footnote-ref-39)
40. Sapana Pradhan-Malla , UN Division for the Advancement of Women, Sexual Harassment in the Workplace in Asia (2005), accessed March 2, 2014, http://www.un.org/womenwatch/daw/egm/GBV/VAW-gp-2005/docs/experts/pradhanmalla.sh.pdf. [↑](#footnote-ref-40)
41. Committee on the Elimination of Discrimination against Women, CEDAW/C/46/D/18/2008 (2010). [↑](#footnote-ref-41)
42. Communication No. 18/2008 (submitted Karen Tayag Vertido, November 29, 2007) [↑](#footnote-ref-42)
43. Supra note 41, 5-6. [↑](#footnote-ref-43)
44. Supra note 3, 457. [↑](#footnote-ref-44)
45. Ibid. [↑](#footnote-ref-45)
46. See Frances Raday, "Feminist Legal Theory, Legislation and Ltigation in Israel; Retrospective", in Studies in Law, Gender and Feminism, eds. Dafna Barak-Erez et al. (2007), 19; Anita Bernstein, "Treating Sexual Harassment with Respect", Harvard Law Review 11 (1997), 445; Noya Rimlat, "Stereotyping Women, Individualizing Harassment: The Dignitary Paradigm of Sexual Harassment Law Between the Limits of Law and the Limits of Feminism", Yale Journal of Law and Feminism 19 (2008), 391. [↑](#footnote-ref-46)
47. Deirdre McCann, ILO, Sexual harassment at work: National and international responses (Conditions of Work and Employment Series No. 2., 2005). [↑](#footnote-ref-47)
48. The World Bank, Women, Business and the Law 2014 - Removing Restrictions to Enhance Gender Equality - Key Findings (2013), accessed March 2, 2014, http://wbl.worldbank.org/~/media/FPDKM/WBL/Documents/Reports/2014/Women-Business-and-the-Law-2014-Key-Findings.pdf0. [↑](#footnote-ref-48)
49. For example: "The 1996 International Crime Victim Survey IC(V)S survey among more than 30 countries worldwide… found that the highest percentages of victimization at the workplace were observed for sexual incidents against women – inclusive of rape, attempted rape, indecent assault or offensive behavior"; "In a study of the Human Rights Commission in New Zealand that reviewed 284 sexual harassment complaints filed with the Commission between 1995-2000, it was found that despite the common assertion that ‘women also sexually harass men’, 90 per cent of complaints involved men sexually harassing women. ‘Male to male’ harassment was the next most common complaint (6 per cent), while ‘female to female’ harassment accounted for 2 per cent of the complaints. Fewer than 2 per cent of the cases involved women sexually harassing men." ILO, Action against Sexual Harassment at Work in Asia and the Pacific (2001), 49. [↑](#footnote-ref-49)
50. Directorate-General for Employment, Industrial Relations and Social Affairs, Sexual harassment at the workplace in the European Union (European Commission, 1998). ILO, “Action against sexual harassment at work in Asia and the Pacific”, technical report for discussion at the ILO/Japan regional tripartite seminar on action against sexual harassment at work in Asia and the Pacific, Penang, Malaysia, 2-4 October 2001. Both resources are cited in UN General Assembly, “In-depth Study on All Forms of Violence against Women: Report of the Secretary-General” A/61/122/Add.1, (New York: 2006), 42. [↑](#footnote-ref-50)
51. ILO, Sexual Harassment at Work (2007), accessed March 2, 2014, http://www.ilo.org/wcmsp5/groups/public/---ed\_norm/---declaration/documents/publication/wcms\_decl\_fs\_96\_en.pdf. [↑](#footnote-ref-51)
52. Supra note 3, 459. [↑](#footnote-ref-52)
53. Orit Kamir, "What Kind of Harassment: Is Sexual Harassment an Offense of Equality or Dignity?", Mishpatim 29 (1997), 317. [↑](#footnote-ref-53)
54. Plan Limited, A girl’s right to learn without fear: Working to end gender-based violence at school (2013), 5, accessed March 2, 2014, http://www.planusa.org/stuff/contentmgr/files/5848557366630283d063c7ccf8212683/misc/a\_girl\_\_s\_right\_to\_learn\_without\_fear.pdf/. [↑](#footnote-ref-54)
55. Ibid. [↑](#footnote-ref-55)
56. UNESCO, School-Related Gender-Based Violence in The Asia-Pacific Region (2014), 28, accessed April 29, 2014, http://unesdoc.unesco.org/images/0022/002267/226754E.pdf. [↑](#footnote-ref-56)
57. Ibid, 29. [↑](#footnote-ref-57)
58. Ibid. [↑](#footnote-ref-58)
59. American Association of University Women, Hostile Hallways: bullying, teasing, and sexual harassment in school (Washington D.C., 2001) – cited in UN General Assembly, “In-depth Study on All Forms of Violence against Women: Report of the Secretary-General” A/61/122/Add.1, (New York: 2006), 42. [↑](#footnote-ref-59)
60. Action Aid and UNICEF commissioned survey on gender violence in Malawi that is cited in IRIN humanitarian news and analysis (a service of the UN Office for the Coordination of Humanitarian Affairs) report, "Malawi: Abuse of women and girls a national shame" (2006 – cited in UN General Assembly, “In-depth Study on All Forms of Violence against Women: Report of the Secretary-General” A/61/122/Add.1, (New York: 2006), 42. [↑](#footnote-ref-60)
61. Ibid. [↑](#footnote-ref-61)
62. Supra note 54, 30. [↑](#footnote-ref-62)
63. Ibid. [↑](#footnote-ref-63)
64. As mentioned in Wellesley Centers for Research on Women, Unsafe Schools: A Literature Review of

    School-Related Gender-Based Violence in Developing Countries (Arlington, Development and

    Training Services, Inc., 2004) – cited in UN General Assembly, “In-depth Study on All Forms of Violence against Women: Report of the Secretary-General” A/61/122/Add.1, (New York: 2006), 42. [↑](#footnote-ref-64)
65. Supra note 56, 16. [↑](#footnote-ref-65)
66. Ibid, 25. [↑](#footnote-ref-66)
67. Ibid. [↑](#footnote-ref-67)
68. Ibid. [↑](#footnote-ref-68)
69. Supra note 54, 29. [↑](#footnote-ref-69)
70. See for example the following: fhttp://educationenvoy.org/malala-day-2/. [↑](#footnote-ref-70)
71. Supra note 54, 12. [↑](#footnote-ref-71)
72. Ibid, 29. [↑](#footnote-ref-72)
73. Ibid, 18. [↑](#footnote-ref-73)
74. Ibid, 28. [↑](#footnote-ref-74)
75. Ibid, 23, 33. [↑](#footnote-ref-75)
76. The World Bank, Women, Business and the Law 2014 - Removing Restrictions to Enhance Gender Equality - Key Findings (2013), accessed March 2, 2014, http://wbl.worldbank.org/~/media/FPDKM/WBL/Documents/Reports/2014/Women-Business-and-the-Law-2014-Key-Findings.pdf. [↑](#footnote-ref-76)
77. Supra note 54, 23. [↑](#footnote-ref-77)
78. Ibid, 47-48. [↑](#footnote-ref-78)
79. Ibid. [↑](#footnote-ref-79)
80. Ibid, 51-52. [↑](#footnote-ref-80)
81. This part uses information from the Lowenstein Human Rights Project report, see supra note 19. [↑](#footnote-ref-81)
82. The HRC Working Group on Discrimination against Women has issued a statement calling for the decriminalization of adultery – see http://www.ohchr.org/Documents/Issues/Women/WG/BackgroundNoteAdultery2.doc. [↑](#footnote-ref-82)
83. Amnesty International, Save Amira Osman from Flogging in Sudan, December 5, 2013, accessed March 2, 2014, http://www.amnesty.org.au/action/action/32749/. [↑](#footnote-ref-83)
84. [Katrien Hinderdael](http://www.enoughproject.org/blogs/katrien-hinderdael), "Sudanese Stand Behind Amira Osman Hamed", Enogh Project, November 13, 2013, accessed March 2, 2014, <http://www.enoughproject.org/blogs/sudanese-stand-behind-amira-osman-hamed> [↑](#footnote-ref-84)
85. UN General Assembly, “In-depth Study on All Forms of Violence against Women: Report of the Secretary-General” A/61/122/Add.1, (New York: 2006), 42. [↑](#footnote-ref-85)
86. "State agents include all people empowered to exercise elements of State authority — members of the legislative, executive and judicial branches, as well as law enforcement officials, social security officials, prison guards, officials in places of detention, immigration officials and military and security forces". UN General Assembly, “In-depth Study on All Forms of Violence against Women: Report of the Secretary-General” A/61/122/Add.1, (New York: 2006), 43. [↑](#footnote-ref-86)