

# SYNOPSIS

## Violence Against Women and the Criminal Justice System

### SUMMARY OF A TECHNICAL NOTE ON GENDER ISSUES IN CRIMINAL JUSTICE SECTOR PROJECTS<sup>1</sup>



### Introduction

All member countries of the IDB have ratified the International Convention to Prevent, Punish, and Eradicate Violence Against Women.<sup>2</sup> But to date implementation has not been sufficient to deal with the phenomenon in a comprehensive way. Additional efforts are needed to fulfill the terms of the law and to ensure women's access to legal services, assistance, and repatriation.

Latin America and the Caribbean is one of the world's most violent regions, particularly in urban areas. Crime rates and feelings of insecurity are rising. While young, urban men are most affected, especially in terms of homicides, levels of violence against women (VAW) have risen in the region as well. VAW should be measured not only in killings of women (femicide, the ultimate form of such violence), but also in terms of the victimization caused by physical, sexual, and emotional violence inflicted by intimate partners (IPV) and others in domestic and family settings. VAW affects between 17 and 50 percent of the region's women.

The technical note summarized here examines how the region's criminal justice systems (CJSs<sup>3</sup>) deal with VAW and the challenges it continues to pose. The summary provides guidance for the incorporation of gender issues into IDB-financed operations and presents questions and indicators for IDB project teams and member country counterparts to consider when designing and implementing projects.

### Key challenges in handling VAW within the CJS of the region

The countries of the LAC region have adopted measures to establish more effective systems for the administration of justice. Among the measures that address VAW are those that provide for the dissemination of information on existing rights; improve legal assistance for vulnerable groups of women; establish domestic courts and easy-to-access family tribunals; develop traveling courts to serve areas that pres

1. The full note “**Violencia contra las Mujeres y el Sistema de Justicia Penal**” (Technical Note 6, Inter-American Development Bank, Washington, DC, January 2014) is available in Spanish, and can be found at <http://www.iadb.org/document.cfm?id=38668018>. This is one in a series of sector-specific technical notes that have been developed as practical guides to support implementation of IDB's Operational Policy on Gender Equality. Steven Kennedy provided editorial and translation support, in collaboration with Anne-Marie Urban and Paola Buitrago.

2. Adopted at Belém do Pará, Brazil, June 9, 1994. Dates of ratification by member countries and other details can be found at <http://www.oas.org/juridico/english/treaties/a-61.html>

3. The criminal justice system includes the police, the courts, and the correctional system. Investigators and forensic scientists are also key actors.

ently lack them; and optimize the use of new technologies (for example, mobile devices, cell phone notifications, and Internet services).

Yet serious challenges remain, both in legal frameworks and in the implementation and enforcement of public policies related to VAW:

**Inadequate laws and procedures to address VAW.** The CJSs of the region suffer from deficiencies in the classification, processing, prosecution, and tracking of cases of VAW. Legal frameworks are limited, and the application of existing laws is generally weak. Most new laws on VAW and domestic violence have not been accompanied by implementing regulations or by interventions designed to eradicate violence in a sustained way.

**Low awareness and capacity within the CJS about the problems of VAW.** The lack of awareness and knowledge about VAW, as well as discriminatory attitudes on the part of police and court personnel, often leave survivors fearing further violence and feeling that they have not received justice. The manner in which survivors' statements are taken by police or judges may contribute to indirect revictimization.

**Fragmented, incomplete, and incompatible information systems.** The cases of VAW that do make it into the CJS are often poorly tracked. Incompatible registries and databases complicate the judicial path traveled by survivors. They also impede or prevent assessment of the frequency of victimization of women; incidents of violence involving the same vic-

tim or perpetrator; the relationship between complaints and resolutions; and the ethnic, racial, and geographic distribution of violence.

**Underreporting and poor case processing.** Women's ignorance of their legal rights and low expectations of the CJS, combined with the lack of quality legal assistance, keep many women from reporting acts of violence. Even when they know their rights, many survivors are reluctant to come forward because of shame, embarrassment, or fear. When VAW is reported, cases tend to receive low priority and conviction rates remain low.

**Risks accompanying alternatives to prison sentences.** Victims' difficulty in obtaining counsel, coupled with the exercise of excessive discretion by judges, leaves many survivors exposed to the risks of extrajudicial solutions expediently imposed by courts. Alternatives to prison sentences may speed up case processing, but in the absence of programs to prevent future acts of VAW such measures can also expose survivors to further danger, while also possibly circumventing or even violating laws and regulations.

**Lack of budgetary resources to address the foregoing themes.** Budgets in most countries constrain the application of laws and regulations on VAW. For example, the shortage of skilled investigators and forensic scientists may result in failure to gather evidence or in the contamination or compromise of whatever evidence is obtained. Legal services and shelters for survivors are inadequate and almost nonexistent outside urban areas.

## Proposed areas of action and intervention

The following actions can enhance projects designed to prevent and punish acts of VAW in the CJSs of the region. Ex-amples of their application are provided in the [full note](#) in Spanish.

**Improving the legal framework and the enforcement of laws and regulations.** The adoption of more comprehensive laws on VAW can ensure recognition of the various forms of the problem and establish a framework for the implementation of measures to prevent and punish VAW and to protect and compensate survivors. Those laws should promote and monitor efforts to protect women from violence and include explicit recognition of the crime of femicide. Equally important are the harmonization of laws at all levels of the CJS and

the drafting of detailed rules and regulations for the practical implementation of those laws.

**Raising awareness and capacity within the CJS on the subject of VAW.** Communication campaigns and education are needed to raise awareness within the CJS about women's legal rights and the importance of taking gender differences into account throughout the system. Starting with the police officers who respond to complaints and continuing up to the level of judges, individuals working in the CJS (as well as in health and education) should be trained to better carry out laws and regulations on VAW and to implement programs to prevent and respond to such violence.

**Improving the responsiveness of the CJS to survivors.**

Greater representation of women at various levels of the CJS (e.g., female judges and police officers), specialized tribunals, and special police units dedicated to women and families are among the measures that can improve the system's attention and responsiveness to VAW cases (when they are adequately funded). They have, in some cases, helped increase reporting. Uniform protocols for taking complaints would also improve the effectiveness of police, mediators, prosecutors, and courts. To spare survivors the pain of repeated appearances, Gessel chambers can be used to conduct interviews with survivors for viewing by the judge and experts.

**Improving women's understanding of their rights and options.**

Local legal advocates can help educate women about their rights and guide them in the use of the CJS to obtain relief and justice. In some countries, indigenous women acting as mediators and dispensers of customary justice can serve the same functions. Mass communication campaigns can be useful in educating women (as well as their intimate partners) about the unacceptability of VAW.

**Protecting survivors of VAW and providing integrated services.**

Coordinated, integrated services (including one-stop services staffed by multidisciplinary teams) can be the best way to respond immediately to VAW. Emergency protective orders and prompt follow-up on complaints are also critical to minimize the recurrence of violence for women at high risk. Alliances and coalitions among key actors in the CJS, local governments, grassroots organizations, and nongovernmental organizations dedicated to the defense of women's rights and safety can help in the design and delivery of integrated services for survivors.

**Collecting more and better data to support evaluation and policy making.**

The systematic collection and analysis of quantitative data and surveys on the prevalence of VAW are needed to underpin evidence-based policy making. Survey protocols should protect the anonymity and security of interviewees. Data-collection efforts should follow the standards established by the World Health Organization so as to permit comparability. New information technologies can be used to create individual records that make it possible to track the effectiveness of court-ordered protective measures, guard against revictimization, and analyze the ratio of complaints to resolutions, among other useful functions.

**Proposed questions to guide gender analysis when planning projects to address VAW in the CJS**

(See [full note](#) in Spanish for additional questions)

Area of intervention	Proposed questions
General	<p>Do the institutions responsible for addressing VAW communicate effectively with one another?</p> <p>What progress has the country shown in integrating international standards into their national policy frameworks to expand access to justice for survivors of VAW?</p> <p>How does the CJS treat cases of VAW (complaints, protective measures, sentencing alternatives, and services for survivors)?</p> <p>Do gender norms and barriers prevent survivors' effective access to justice or their appropriate treatment by the police, courts, and correctional system?</p>
Legal and regulatory framework	<p>What types of criminal offenses related to VAW have been included in the criminal law and other regulations?</p> <p>Have regulations been put in place to increase efficiency in the implementation of the legal framework on IPV/ domestic violence?</p> <p>Are judicial or extrajudicial mediation or conciliation prohibited in cases of IPV?</p>
Complaints	<p>What coordination and monitoring arrangements exist between institutions involved in legal processes related to complaints of VAW?</p> <p>What means exist to protect survivors' confidentiality and prevent revictimization?</p> <p>Are there plans to train CJS personnel and others who deal with cases of VAW to improve the handling of complaints and services for survivors?</p>
Case processing	<p>What measures does the project propose to promote equitable treatment of cases of VAW by members of the CJS?</p> <p>Are there measures to deal with the refusal of the judicial system to prosecute cases of VAW? Are there measures to avoid double prosecution?</p> <p>What kind of medical and legal protocols exist for survivors of VAW and sexual offenses?</p>

Area of intervention	Proposed questions
Protective measures	What types of protective measures are used by law enforcement agencies? What is the gap between the imposition and enforcement of protective measures? Are there protocols to follow up on protective measures and respond to high-risk situations? Have project staff and officials responsible for public safety, criminal justice, and corrections been trained to handle VAW cases?
Sentencing efficiency	What are the ratios of (i) convictions for IPV/domestic violence to total incident reports, and (ii) convictions for IPV/domestic violence to total cases processed? What is the average time between case processing and sentencing?
Services	What programs or specific measures exist to protect the rights of survivors of IPV/domestic violence during legal proceedings? Are free legal services available? What means would the project propose to develop initiatives to teach survivors (and their families) about their rights and about access to the CJS? What other specialized services are available to VAW survivors? How effective are they in meeting their needs?
Data collection	How are data on the incidence of VAW complaints, cases processed, and sentences captured and published? Are specialized national surveys conducted to measure VAW?
Monitoring and evaluation	How will the project monitor and evaluate results related to gender equality? <ul style="list-style-type: none"> <li>• Specific outputs and targets related to VAW</li> <li>• Gender-related results/sex disaggregation of beneficiaries in the results matrix</li> </ul>
Monitoring and evaluation	What actions are proposed to follow up on the effect of the project on gender equality? For example: Adoption of specific output and targets related to VAW Inclusion of gender-related results indicators and sex disaggregation of beneficiaries in the results matrix

## Sample of indicators for monitoring and evaluating gender-specific results in CSJ projects

(See [full note](#) for a longer set of indicators)

Area of intervention	Sample indicators	
	Outputs	Outcomes
Improve the capacities of the CJS to address VAW	Percent of budget allocation for the CSJ aimed at addressing cases of VAW Number and types of mechanisms for inter-agency coordination of police, courts, and corrections to address VAW	Percent increase in the rate of public perception of the capacity of the CJS to handle cases of VAW, broken down by gender
Improve institutional capacities to handle complaints and process VAW cases	Number of police officers trained to take and deal with VAW complaints Number and percent of officials involved in the judicial handling of VAW who have completed training or specialization Number and distribution of judges and prosecutors specializing in IPV/VAW Number of investigators and forensic scientists trained to collect and analyze evidence, particularly in the case of sexual assault	Percent increase in VAW complaints filed that are cleared for judicial proceedings Percent increase in the number of cases that result in a conviction Percent reduction in average time between VAW case filing and sentencing
Strengthen protective measures and legal services for survivors of VAW	Number of women survivors of violence who benefit from legal assistance programs Number and percent of survivors and offenders participating in reparation and rehabilitation programs Number of specific measures to protect women survivors of IPV during legal proceedings	Percent increase in the number of women survivors who know their rights and how to access the CJS Percent decrease in the number of perpetrators who violate protective orders or are arrested for repeat offenses against their partners

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