

# ***FAMILY COURTS IN CRISIS***

## ***NEWSLETTER***

**December 2013**

### **Violence Against Women is a Human Rights Violations: Whenever and Wherever it Occurs**



*For a long time, we have been the lepers that mar the Ball, we captives are not a politically correct topic.....*

*We must think of where we come from, who we are, and where we want to go. I aspire to our having that thirst for greatness one day that makes people rise up from nothingness to the sun. When we are unconditional vis-a-vis the defense of the life and liberty of our own, that is, when we are less individualistic and more committed to the common good, less indifferent and more involved, less intolerant and more compassionate, then at that time we will be the great nation (world) that all of us would like to be. That greatness is there asleep in our hearts. But hearts have hardened and weigh so heavily that no elevated sentiments are permitted....*

**Ingrid Betancourt**

# Abuse and Torture Go Far Beyond Broken Bones, It Breaks the Heart & Spirit & Is So Designed

by Quenby Wilcox – September 2009

In 2001 I attended the inauguration of the Spanish version of Ingrid's Betancourt's book *La Rage au Coeur*, in Bogota, Colombia, and her ensuing presidential campaign speeches. While I was impressed with her convictions, enthusiasm, and desire for peace and change for her country, I felt that she could never achieve in Colombia what is unattainable in the United States and Europe. I followed her 6 years of captivity in the Colombian, Spanish, French and American press closely and admired Astrid and her family's never ending persistent, to liberate Ingrid. I know enough about the dynamics and political backdrop of her liberation to know that without the efforts of Ingrid's family, she, and those freed with her, would have been left to die in the jungles of Colombia by the "important" people of this world.

However, it was upon reading the following passage in her book *Letter to My Mother* that was published during her captivity, that I thought to myself; ***"This is exactly the torment and fear that I have lived for the past 3 years, and that all too many women and children around the world live for an entire lifetime. And, no one really cares, as I have learned the hard way!"***

**This is where the true battle lies for peace and democracies, not in political campaigns and politically correct rhetoric!**

I owe an enormous amount of gratitude to Ingrid and Astrid. At the end of 2007 I realized that my children would end up under the custody of their emotionally unstable father, and his and his family's influence and mercy. In my desperation, I contacted every association whose mission is to help women in my situation and anyone and everyone I have known during my life-time, who have any kind of "power," asking for their assistance. THE ONLY person who provided any assistance was Astrid Betancourt.

The amount of people who provided me with empty rhetoric and promises, ignored me, or slammed the proverbial door in my face was amazing. The apathy and indifference of people over the life of a woman and her children stunned and disillusioned me more than I had even been in my entire life, and is precisely why what happened to me and my children occurs everyday, everywhere.

Additionally, for the first time in my life I was presented with a problem that I did not know how to handle or confront, and had no one to turn to for advice. It was in re-reading Ingrid's book *La Rage au Coeur* that she gave me the advice and answer that I needed.

I will be indebted to these two women for the rest of my life, not only did they assist me in a practical way, but they have given me the strength to continue fighting day after day, by observing the courage and force that they had shown in face of horrifying challenges and

adversities. After 6 years of living in Colombia with security concerns of my own children and family, witnessing kidnappings, homicide and terrorist attacks, I can appreciate the emotional strain that Ingrid's captivity was for the entire family.

The entire world would do well to look to these two women, their mother, their children and family to see where true values lay, whether it be of a family or nation. True values, morals and integrity are not to be found on a slip of paper, whether they be on marriage certificates, birth certificates, constitutions, declarations of rights, or legal codes, but rather through love, honor and dignity. And, I have observed Ingrid and Astrid demonstrate all three of these on various occasions over very many years.

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**LETTER TO MY MOTHER**  
**by Ingrid Betancourt**

*This is a very dense jungle where sunlight scarcely ever penetrates, and it is barren of affection, sympathy, or tenderness. They separated me from the people with whom I had a good rapport and affection and put me in with a very difficult group. I am tired, Mamita, tired of suffering. I have been, or tried to be, strong. These nearly six years of captivity have proven that I am not as resistant, not as brave, not as intelligent, not as strong as I thought.*

*I have put up many battles, have tried to escape several times, have tried to keep up hope like one keeps one's head above water. But, Mamita darling, I give up. I would like to think that one day I will get out of here, but I realize that what happened to the congressmen which affected me so deeply-could happen to me at any moment. I believe it would be a relief for everybody.*

*I keep thinking that at last I am going to cry no more, that it has now healed over. But the pain starts up again and attacks me like a vicious dog, and I again feel my heart breaking into pieces. I am tired of suffering, of bearing it all inside me all the time, of lying to myself, of believing that this will soon end and finding that every new day is the same hell as the one before. I think of my children...*

*We have gone through so much together, have lived our lives so intensely that terra firma seems to have disappeared in the distance. They are the same, and yet they have changed, and with every second of absence, of my inability to be there for them, to assuage their pain, to be able to advise them or give them strength and patience and humility in the face of life's blows, all the lost opportunities to be their Mama, poison these moments of infinite loneliness for me, as if I were given an intravenous injection of cyanide.*

*Mamita darling, this is a very difficult moment for me. They demand a proof of life and here I am pouring my heart out to you on this sheet of paper, I am in poor physical condition. I haven't been eating; my appetite has shut down; my heart is falling out in clumps; I have no desire for anything. And I think the latter is the only thing that is right-having no desire for anything. Because here in this jungle the only answer to everything is "No." It is better not to want anything so as to be free, at least, of desires....*

*I would like to ask you, Mamita darling, to tell the children that I want them to send me three messages a week, on Mondays, Wednesdays, and Fridays. Ask them to send you a couple of lines to your e-mail address so that you can read them to me. Nothing world-shaking, just whatever*

*they can think of to write, such as "Mamita, today is a marvelous day" or "I'm having lunch with Maria; I love her very much and I know you are going to be pleased with her" or 'I am exhausted but I learned a lot today in class about new filming techniques that I'm excited about.'" I don't need anything more, but I do need to be in contact with them. In fact, everyday I wait anxiously to see if you are going to mention them or if you talked with them. That is what makes me happy, the only thing I care about knowing, the only vital, significant, indispensable information. All the rest doesn't matter to me.....*

*Well as I was telling you, life here is no life; it is a gruesome waste of time. I live, or survive, in a hammock strung between two poles, covered with mosquito netting and a canvas that acts as a roof, which to keep my belongings, that is to say, the knapsack with my clothes and a bible my only luxury. Everything is prepared for leaving on the run. Here, nothing is one's own, nothing lasts; uncertainty and precariousness are the only constant.....*

*Everyday less and less of myself remains..... Everything is hard. That's the reality. It is important that I dedicate these lines to those who are my oxygen, my life-to those who keep my head above water, who do not let me drown into oblivion, emptiness, and despair. They are you my children.....Tell them that they have never ceased to be my source of joy in this harsh, captivity. Everything here has two sides, joy comes with pain, happiness is sad, love cures and opens new wounds; to remember is to live and to die anew.....*

*I was telling you that for years I was unable to think of the children because of the dreadful pain it cause me not being with them. Now I can hear them and feel more joy than pain. I seek them in my remembrances and sustain myself with the images I keep in my memory of the ages of each. I sing "Happy birthday" to them on every birthday .... I celebrate their birthdays in my heart.... And, if I were to die today, I would go satisfied with life, thanking God for my children.....*

*For a long time, we have been the lepers that mar the Ball, we captives are not a politically correct topic..... We must think of where we come from, who we are, and where we want to go. I aspire to our having that thirst for greatness one day that makes people rise up from nothingness to the sun. When we are unconditional vis-avis the defense of the life and liberty of our own, that is, when we are less individualistic and more committed to the common good, less indifferent and more involved, less intolerant and more compassionate, then at that time we will be the great nation (world) that all of us would like to be. That greatness is there asleep in our hearts. But hearts have hardened and weigh so heavily that no elevated sentiments are permitted....*

*...The wars waged against the freedom of a handful of forgotten ones are like a hurricane seeking to bring down everything. It is of no interest. His intelligence, his nobility, and his devotion have given pause to many, and here, more than the freedom of some poor crackpots chained up in the jungle, it is a matter of taking stock of what it means to defend human dignity. **Ingrid Betancourt***

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Until dignity, honor and peace exist within our homes, it will never exist within our communities, societies and this world.

Quenby Wilcox



**UNITED NATIONS  
GENERAL ASSEMBLY**

**6 JULY 2006**

**SIXTY-FIRST SESSION**

**ADVANCEMENT OF WOMEN: IN-DEPTH STUDY ON  
ALL FORMS OF VIOLENCE AGAINST WOMEN  
REPORT OF THE SECRETARY-GENERAL**

**THE RESPONSIBILITY OF THE STATE TO ADDRESS VIOLENCE AGAINST WOMEN**

**Introduction**

...the emergence of violence against women as a human rights concern and the common understanding of the State's responsibility to prevent and respond to such violence. [This report] elaborates on the content of this responsibility and implementation at the national level. Human rights treaties, equally applicable to women and men, set out a series of rights that are critical in the protection of women from violence

**International treaties**

- Convention on the Elimination of All Forms of Discrimination against Women
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
- International Covenant on Civil and Political Rights and Optional Protocol
- International Covenant on Economic, Social and Cultural Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child and Optional Protocols
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations
- Convention against Transnational Organized Crime
- Rome Statute of the International Criminal Court

**State responsibility**

It is now well established under international law that violence against women is a form of discrimination against women and a violation of human rights. States' obligations to respect, protect, fulfil and promote human rights with regard to violence against women encompasses the responsibility to prevent, investigate and prosecute all forms of, and protect women from, such violence and to hold perpetrators accountable.

**States are responsible under international law for human rights violations and acts of violence against women perpetrated by the State or any of its agents. Such responsibility arises not only from State actions, but also from omissions and failure to take positive measures to protect and promote rights.**

States must refrain from committing human rights violations through their own agents. **They also have a duty to prevent human rights violations by non-State actors, investigate allegations of violations, punish wrongdoers and provide effective remedies to victims.** States are accountable for the actions of non-State actors if they fail to act with due diligence to prevent, investigate or punish such acts and provide an effective remedy.

**Much violence against women is committed by private actors and includes a broad range of individuals and entities, such as intimate partners and other family members;** casual acquaintances and strangers; neighbourhood and community institutions; criminal gangs, organizations and business enterprises. The use of the standard of due diligence underlines the State's duty to protect women effectively from such violence.

The standard of due diligence is articulated in general recommendation No. 19 of the Committee on the Elimination of Discrimination against Women, which notes that **"States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation"** and in international and regional legal and policy instruments and jurisprudence.

**In Velasquez Rodriguez v. Honduras, the Inter-American Court of Human Rights held that a State must take action to prevent human rights violations committed by non-State actors, investigate allegations of violations and punish wrongdoers.** The standard is not one of strict liability, in which the State would be held accountable for acts of violence against women regardless of the circumstances, but rather one of reasonableness. It is based on principles of non-discrimination and good faith in application.

**The standard of due diligence therefore requires a State to act with the existing means at its disposal to address both individual acts of violence against women and the structural causes so as to prevent future violence.**

### **Addressing violence against women**

Measures taken to prevent violence against women, to investigate and prosecute acts of violence and punish perpetrators and to put in place remedies are benchmarks by which States, women's organizations and advocates and human rights mechanisms may assess national laws, programmes and policies and evaluate their compliance with international obligations.



**States have a general duty to promote de facto equality between women and men and to develop and implement effectively a legal and policy framework for the full protection and promotion of women's human rights.** This is particularly important where women may face increased risk of violence because their enjoyment of rights such as those to housing, education or employment is impaired. State responsibility is not limited to responding to acts of violence against women, but extends to **identifying patterns of inequality that could result in violence and taking steps to overcome them.**

### **Legal and policy framework**

Adherence to the Convention on the Elimination of All Forms of Discrimination against Women, its Optional Protocol and other relevant international human rights treaties and the removal of reservations constitute measures to address violence against women. Similarly, the inclusion of the principle of equality of men and women in national constitutions or similar legislation, in accordance with international standards, enhances the framework for addressing violence against women. National plans of action to protect women against violence and to improve the promotion and protection of women's human rights are part of compliance measures. States are also required to allocate an adequate budget to address violence against women.

### **Prosecution and punishment of perpetrators of violence against women**

The obligation of States to prosecute and punish perpetrators of violence against women is outlined in international instruments. In *María da Penha Maia Fernandes v. Brazil*,<sup>281</sup> the Inter-American Commission on Human Rights found that the failure of the State to prosecute and punish a perpetrator of domestic violence for more than 15 years after the start of an investigation contradicted the State's international commitments and was an indication that the State condoned such violence.

### **Legislation and its implementation**

Where adequate legislation exists, the treaty bodies have frequently expressed concern that such **legislation has not been effectively implemented**. Particular concerns include:

- **the absence of regulations to implement legislation**
- **lack of clear procedures for law enforcement and health-care personnel**
- **attitudes of law enforcement officers that discourage women from reporting cases**
- **high dismissal rates of cases by police and prosecutors**
- **high withdrawal rates of complaints by victims**
- **low prosecution rates**
- **low conviction rates**
- **failure of courts to apply uniform criteria, particularly in relation to measures to protect victims**
- **lack of legal aid and high costs of legal representation in courts**
- **practices that deny women agency, such as detaining women for their "protection" without their consent**
- **and use of reconciliation proceedings between a perpetrator and a victim of violence in criminal and divorce cases to the detriment of the victim.**

## Attitudes and stereotypes

The treaty bodies have highlighted the fact that women are kept in subordinate positions and thus placed at risk of violence, by traditions and customs that discriminate against women, by gender-role stereotyping and by **discrimination against women in law, including customary law and in practice**. The treaty bodies have noted that the **perpetuation of discriminatory attitudes and stereotypes constructs violence against women, particularly domestic violence, as a private matter that is acceptable or normal**\*. In doing so, the treaty bodies have stressed the importance of States parties **taking steps to eliminate such attitudes and stereotypes**. (\* See *Family Court in Crisis* October newsletter p. 16-17. Whereas US Dept. of State officials contend that domestic violence and the failure of a State to protect victims is a “private matter”.)

## Actions to be taken by States to meet their international obligations

The international legal and policy framework establishes standards for action by States to meet their legal obligations and policy commitments to address violence against women. These fall into the following categories:

- Ratification of all international human rights instruments, including the Convention on the Elimination of all Forms of Discrimination against Women and its Optional Protocol, and withdrawal of reservations
- **Establishment of constitutional frameworks guaranteeing substantive equality for women and prohibiting violence against women**
- Adoption, periodic review and effective implementation, in a gender-sensitive manner, of legislation that criminalizes all forms of violence against women
- **Formulation and implementation of executive policies** or plans of action to eliminate violence against women and regular monitoring and evaluation of such policies or plans of action
- **Investigation in a prompt, thorough, gender-sensitive and effective manner of all allegations of violence against women**, including by keeping official records of all complaints; undertaking investigation and evidence-gathering expeditiously; collecting and safeguarding evidence, with witness protection where needed; and providing the opportunity for women to make complaints to, and deal with, skilled and professional female staff
- **Prosecution of the perpetrators of all forms of violence against women and elimination of any climate of impunity surrounding such offences**
- Action to ensure that the **criminal justice system, including rules of evidence and procedure, functions in a non-discriminating and gender-sensitive manner to encourage women’s testimony in proceedings regarding violence against women**
- **Punishment of the perpetrators of all forms of violence against women in a manner commensurate with the severity of the offence**
- Provision of appropriate remedies, including by adopting measures to allow victims to obtain appropriate symbolic and actual compensation, without prejudice to possible civil proceedings against the perpetrator



- Implementation of training and awareness-raising programmes to **familiarize judges, prosecutors and other members of the legal profession with women's human rights in general**, and the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol in particular
- Implementation of **training programmes for judicial, legal, medical, social services, social work, educational, police** and immigration personnel to educate such personnel and sensitize them to the social context of violence against women
- Action to eliminate all forms of discrimination against women and raise awareness of the issue of violence against women through measures such as: removing all stereotypes and sexist content from educational curricula and creating positive images of women; organizing, supporting or funding, as appropriate, community-based education campaigns to raise awareness about violence against women; promoting and instituting an active and visible policy of gender mainstreaming in all policies and programmes
- Creation of services, in cooperation with civil society organizations as appropriate, in the following areas: **access to justice, including free legal aid when necessary; provision of a safe and confidential environment for women to report violence against women**; adequately funded shelters and relief services; adequately funded health-care and support services, including counselling; linguistically and culturally

### **Guiding principles for promising practices in law and the justice system**

A growing body of experience suggests that when certain principles are followed, laws have greater potential to address violence against women effectively. These principles include:

- **Address violence against women as a form of gender-based discrimination, linked to other forms of oppression of women, and a violation of women's human rights**
- Make clear that violence against women is unacceptable and that eliminating it is a public responsibility
- Monitor implementation of legal reforms to assess how well they are working in practice
- Keep legislation under constant review and continue to reform it in the light of new information and understanding
- **Ensure that victims/survivors of violence are not "revictimized" through the legal process**
- Promote women's agency and **empower individual women who are victims/survivors of violence**
- Promote women's safety in public spaces
- Take into account the differential impact of measures on women according to their race, class, ethnicity, religion, disability, culture, indigenous or migrant status, legal status, age or sexual orientation.

### **Guiding principles for promising practices in the provision of services**

A growing body of experience indicates that good or promising practices in the provision of services are based on a number of general principles, including to:

- Promote the **well-being, physical safety & economic security of victims/survivors** and enable women to overcome the multiple consequences of violence to rebuild their lives
- Ensure that **victims/survivors have access to appropriate services** and that a range of support options are available that take into account the particular access needs of women facing multiple discrimination
- Ensure that **service providers are skilled, gender-sensitive, have ongoing training and conduct their work in accordance with clear guidelines, protocols and ethics codes** and, where possible, provide female staff
- Maintain the confidentiality and privacy of the victim/survivor
- **Cooperate and coordinate with all other services** for victims/survivors of violence
- **Monitor and evaluate the services provided**
- **Reject ideologies that excuse or justify men's violence or blame victims**
- **Empower women to take control of their lives**

### **Guiding principles of promising practices in prevention**

Experience suggests that good or promising practice in the area of primary prevention should be based on a number of guiding principles, including the following:

- Prioritize the prevention of violence against women in all policies and programmes
- Allocate specific resources within all sectors for **prevention activities**
- Seek political support for sustained long-term investment in prevention
- **Develop prevention strategies that address the causes of violence against women, particularly the persistence of gender-based stereotypes**
- Outline clear objectives, defining what prevention strategies are seeking to change and how, and put in place a process of monitoring and evaluation
- Ensure that the **perspectives and voices of women, particularly victims/survivors, are central to the development of prevention strategies**
- Work with a cross-section of stakeholders, including government bodies, NGOs, workers' and employers' organizations and local community leaders, to **build inclusive and effective strategies**
- Engage men and boys proactively in strategy development and implementation for the **prevention of male violence against women**
- Highlight the fact that violence against women **is unacceptable and its elimination is a public responsibility**
- Promote women's safety, including by altering physical environments where necessary
- **Ensure that prevention efforts are holistic**, take into account multiple discrimination and connect wherever possible with other key issues for women, such as HIV/AIDS

### **Close the gaps between international standards and national laws, policies and practices**

International standards and norms are not yet sufficiently implemented in practice. **Impunity for violence against women (by both State and non-State actors) results**

from the failure to meet international standards through substantial national and local action and implementation. Accordingly, it is recommended that States:

- **Bring national laws, policies and practices into compliance with international commitments**
- Follow-up on and implement the recommendations that emanate from periodic reviews of their reports and communications and inquiry procedures, as applicable, by human rights treaty bodies, in particular those of the Committee on the Elimination of Discrimination against Women
- **Remove all laws that discriminate against women**; review and revise all State policies and practices to ensure that they do not discriminate against women; and ensure that provisions of multiple legal systems, where they exist, comply with international human rights standards, including the principle of non-discrimination
- Ensure that legislation is in place that adequately addresses all forms of violence against women
- Act with **due diligence to prevent violence against women**; **to investigate such violence**; **to prosecute and punish perpetrators, whether they are State or non-State actors**; and **to provide access to redress for victims**
- Take **positive measures to address structural causes of violence against women and to strengthen prevention efforts that address discriminatory practices and social norms**
- Institute plans of action that are regularly monitored and updated by Governments in consultation with civil society, in particular, NGOs and **women's groups and networks**
- Promote victims/survivors' knowledge of their rights and remedies available to them and their **capacity to claim them through effective access to justice**
- Promote the **competence of all personnel in the legal and criminal justice, health and education systems to meet the needs and secure the rights of victims/survivors through professional education, training and other capacity building programmes**
- Guarantee **appropriate support for women victims/survivors through adequate and accessible services that foster women's safety and agency**
- Protect women in conflict, post-conflict and refugee and internally displaced persons settings where women are particularly targeted for violence and their ability to seek and receive redress is restricted and adopt a gender-sensitive approach to the granting of asylum
- Address **stereotypical attitudes and behaviours that contribute to male violence against women**, working specifically with men and boys, and encourage other stakeholders to implement measures as part of preventing violence against women
- Review and strengthen their work with perpetrators and, in particular, assess the impact of rehabilitation programmes with a view to broadening available strategies for preventing violence against women

## THE BROAD CONTEXT AND STRUCTURAL CAUSES OF VIOLENCE AGAINST WOMEN

### **Patriarchy and other relations of dominance and subordination**

Violence against women is both universal and particular. It is universal in that there is no region of the world, no country and no culture in which women's freedom from violence has been secured. The pervasiveness of violence against women across the boundaries of nation, culture, race, class and religion points to its roots in patriarchy — the systemic domination of women by men. The many forms and manifestations of violence and women's differing experiences of violence point to the intersection between gender-based subordination and other forms of subordination experienced by women in specific contexts.

Historically, gender roles — the socially constructed roles of women and men — have been ordered hierarchically, with men exercising power and control over women. Male dominance and female subordination have both ideological and material bases. Patriarchy has been entrenched in social and cultural norms, institutionalized in the law and political structures and embedded in local and global economies.

It has also been ingrained in formal ideologies and in public discourse. Patriarchy restricts women's choices but does not render women powerless, as evidenced by the existence of women's movements and successful claims by women for their rights.

Patriarchy has had different historical manifestations and it functions differently in specific cultural, geographic and political settings. It is intertwined with other systems of subordination and exclusion. It is shaped by the interaction of a wide range of factors, including histories of colonialism and post-colonial domination, nation-building initiatives, armed conflict, displacement and migration. Its expressions are also influenced by economic status, race, ethnicity, class, age, sexual orientation, disability, nationality, religion and culture. Analysis of the gender-based inequalities that give rise to violence must therefore take into account the specific factors that disempower women in a particular setting. Such contextualized analyses of women's experiences of violence reveal that women exercise agency and varying degrees of control over their lives even within the constraints of multiple forms of subordination.

A number of key means through which male dominance and women's subordination are maintained are common to many settings. These include: exploitation of women's productive and reproductive work; control over women's sexuality and reproductive capacity; cultural norms and practices that entrench women's unequal status; State structures and processes that legitimize and institutionalize gender inequalities; and violence against women. Violence against women is both a means by which women's subordination is perpetuated and a consequence of their subordination.

### **Violence against women serves as a mechanism for maintaining male authority.**

When a woman is subjected to violence for transgressing social norms governing female sexuality and family roles, for example, the violence is not only individual but, through its punitive and controlling functions, also reinforces prevailing gender norms.

Acts of violence against women cannot be attributed solely to individual psychological factors or socio-economic conditions such as unemployment. Explanations for violence that focus primarily on individual behaviours and personal histories, such as alcohol abuse or a history of exposure to violence, overlook the broader impact of systemic gender inequality and women's subordination. **Efforts to uncover the factors that are associated with violence against women should therefore be situated within this larger social context of power relations....**

Violence against women also operates as a mechanism for maintaining the boundaries of both male and female gender roles. The norms governing these roles may be expressed in moral codes or in widely held social expectations. According to a WHO assessment on intimate partner violence and HIV/AIDS, **“men use violence against women as a way of disciplining women for transgressions of traditional female roles or when they perceive challenges to their masculinity.”**

**Intimate partner violence is significantly correlated with rigid gender roles that associate masculinity with dominance, toughness, male authority in the home and threats to male authority.**

**Impunity for violence against women** compounds the effects of such violence as a mechanism of control. When the State fails to hold the perpetrators accountable, impunity not only intensifies the subordination and powerlessness of the targets of violence, but also **sends a message to society that male violence against women is both acceptable and inevitable. As a result, patterns of violent behaviour are normalized.**

The relationship between violence against women and patriarchy was highlighted in a landmark decision by the Constitutional Court of South Africa in 1999. The Court found that the South African Constitution imposed a direct obligation on the State to provide protection from domestic violence. The Court linked this right to protection to the right to equality and non-discrimination. Judge Albie Sachs explained that **“to the extent that it is systemic, pervasive and overwhelmingly gender-specific, domestic violence both reflects and reinforces patriarchal domination, and does so in a particularly brutal form”.**

### **Culture and violence against women**

While some cultural norms and practices empower women and promote women's human rights, **customs, traditions and religious values are also often used to justify**

violence against women. Certain cultural norms have long been cited as causal factors for violence against women, including the beliefs associated with “harmful traditional practices” ...

However, the cultural bases of other forms of violence against women have not been adequately examined, at least in part because of narrow conceptions of what constitutes “culture.” Culture is formed by the values, practices and power relations that are interwoven into the daily lives of individuals and their communities. Social behaviour is mediated by culture in all societies and culture affects most manifestations of violence everywhere. **But the particular relationship between culture and violence against women can only be clarified in specific historical and geographic contexts.**

**Since culture is constantly being shaped and reshaped by processes of material and ideological change at the local and global levels, the capacity to change is essential to the continuation of cultural identities and ideologies.** Culture cannot be reduced to a static, closed set of beliefs and practices.

**Culture is not homogenous. It incorporates competing and contradictory values.** Particular values and norms acquire authority when political, economic and social developments bring their proponents to power or positions of influence. Determinations of what needs to be preserved change over time, as, for example, when male leaders willingly accept technology that massively affects culture, but resist changes in women’s status, reflecting a tendency to treat women as the repositories of cultural identity.

Women are also actors in constituting culture: they “influence and build the cultures around them, changing them as they resist, and reinforcing and recreating them as they conform”. Key aspects of women’s individual identities are interwoven with their cultural communities and their participation in cultural customs and practices. **Women not only suffer from negative aspects of the cultures in which they live, they also benefit from and are supported by positive cultural values and practices within their communities.**

Cultural justifications for restricting women’s human rights have been asserted by some States and by social groups within many countries claiming to defend cultural tradition. These defences are generally voiced by political leaders or traditional authorities, not by those whose rights are actually affected. Cultural relativist arguments have been advanced in national contexts and in international debates when laws and practices that curtail women’s human rights have been challenged. The politicization of culture in the form of religious “fundamentalisms” in diverse geographic and religious contexts has become a serious challenge to efforts to secure women’s human rights.

### **Economic inequalities and violence against women**

Economic inequalities can be a causal factor for violence against women both at the level of individual acts of violence and at the level of broad-based economic that create or exacerbate the enabling conditions for such violence. These economic inequalities can be



found at the local, national and global level. Women's economic inequalities and discrimination against women in areas such as employment, income, **access to other economic resources and lack of economic independence reduce women's capacity to act and take decisions, and increase their vulnerability to violence...**

Despite overall advances in women's economic status in many countries, many women continue to face discrimination in formal and informal sectors of the economy, as well as **economic exploitation within the family.**

**Women's lack of economic empowerment, also reflected in lack of access to and control over economic resources in the form of land, personal property, wages and credit, can place them at increased risk of violence.**

In addition, **restrictions on women's control over economic resources, such as household income, can constitute a form of violence against women in the family.**

**While economic independence does not shield women from violence, access to economic resources can enhance women's capacity to make meaningful choices, including escaping violent situations and accessing mechanisms for protection and redress...**

In many countries, **women migrants also face discrimination** based on race, ethnicity or national origin, little or no access to social services and increased domestic violence.

## **CAUSAL AND RISK FACTORS FOR VIOLENCE AGAINST WOMEN**

Within the broad context of women's subordination, a number of specific causal factors for violence can be identified. These include structural causal factors such as the use of violence in conflict resolution, doctrines of privacy and State inaction, discussed below.<sup>69</sup> They also include individual or family behaviour patterns that create a higher risk of violence, as discussed in paragraphs 97 to 100 below.

### **Use of violence in conflict resolution**

A correlation between **broad-based social and political acceptance of violence as a means of conflict resolution and violence against women can be traced at the individual, community and national levels.** At the individual level, approaches to conflict resolution between couples and within families and interpersonal relationship skills are factors in determining whether conflict escalates into violence.

**At the community level, social norms governing how conflicts within the family or in the community should be handled create an environment that either condones or discourages violence.**

## Doctrines of privacy

Legal doctrines protecting the privacy of the home and family have been widely used to justify the failure of the State and society to intervene when violence is committed against women in the family and to take remedial action. Deference to the privacy of the home, in both law and practice, contributes not only to impunity for violence against women at the hands of family members, but also to impunity for violence against domestic workers.

The development of international law in the last 15 years has extended the State's human rights obligations in the family arena and States have adopted laws and policies in line with these obligations. However, **enforcement remains a pervasive challenge, as social norms and legal culture often protect privacy and male dominance within the family at the expense of the safety of women and girls.**

## State inaction

The State plays a key part in the construction and maintenance of gender roles and power relations. State inaction leaves in place discriminatory laws and policies that undermine women's human rights and disempowers women. It shifts responsibility for preventive and remedial measures to NGOs and other groups in civil society.

It also functions as approval of the subordination of women that sustains violence and acquiescence in the violence itself. State inaction with regard to the proper functioning of the criminal justice system has particularly corrosive effects as impunity for acts of violence against women encourages further violence and reinforces women's subordination. Such inaction by the State to address the causes of violence against women constitutes lack of compliance with human rights obligations

## Risk factors for violence

**At the level of the individual:** youth; a history of abuse as a child; witnessing marital violence in the home

**At the level of the couple and family:** male control of wealth and decision-making authority within the family; a history of marital conflict; and significant interpersonal disparities in economic, educational or employment status.

**At the level of the community:** women's isolation and lack of social support; community attitudes that tolerate and legitimize male violence; and high levels of social and economic disempowerment, including poverty.

**At the level of society:** gender roles that entrench male dominance and female subordination; and tolerance of violence as a means of conflict resolution.

**At the level of the State:** inadequate laws and policies for the prevention and punishment of violence; and limited awareness and sensitivity on the part of law enforcement officials, courts and social service providers.

## **Implications for State and intergovernmental action**

**The centrality of discrimination against women and women's subordination as a cause of violence against women has clear implications for action by States and intergovernmental organizations.**

To meet their human rights obligations, States must take up the challenge of transforming the social and cultural norms regulating the relations of power between men and women and other linked systems of subordination. **States have a responsibility to act as a catalyst for social change and cannot defer this responsibility to civil society groups.**

## **Forms, consequences and costs of violence against women**

**Violence against women takes many different forms, manifested in a continuum of multiple, interrelated and sometimes recurring forms.** It can include physical, sexual and psychological/emotional violence and economic abuse and exploitation, experienced in a range of settings, from private to public, and in today's globalized world, transcending national boundaries. **Naming forms and manifestations of violence against women is an important step towards recognizing and addressing them.**

...Some forms of violence may grow in importance while others diminish as societies undergo demographic changes, economic restructuring and social and cultural shifts. For example, new technologies may generate new forms of violence, such as Internet or mobile telephone stalking. Consequently, no list of forms of violence against women can be exhaustive. States must acknowledge the evolving nature of violence against women and respond to new forms as they are recognized.

Violence against women has far-reaching consequences for women, their children and community and society as a whole. **Women who experience violence suffer a range of health problems and their ability to earn a living and to participate in public life is diminished. Their children are significantly more at risk for health problems, poor school performance and behavioural disturbances.**

The costs of violence against women, apart from the human costs, go beyond lowered economic production and reduced human capital formation but also include the **costs associated with political and social instability through intergenerational transmission of violence**, as well as the funds required for programmes for victims/survivors of violence.

Although most cases of violence against women involve a female victim/survivor and a male perpetrator, **women also commit acts of violence. While women commit a small proportion of intimate partner violence, they are involved to a greater degree in the perpetration of harmful traditional practices and in trafficking.**

## FORMS & MANIFESTATIONS OF VIOLENCE AGAINST WOMEN IN VARIOUS SETTINGS

### Intimate partner violence

**The most common form of violence experienced by women globally is intimate partner violence.** The pervasiveness of different forms of violence against women within intimate relationships, commonly referred to as domestic violence or spousal abuse, is now well established. **Intimate partner violence includes a range of sexually, psychologically and physically coercive acts used against adult and adolescent women by a current or former intimate partner, without her consent.**

Physical violence involves intentionally using physical force, strength or a weapon to harm or injure the woman. Sexual violence includes abusive sexual contact, making a woman engage in a sexual act without her consent, and attempted or completed sex acts with a woman who is ill, disabled, under pressure or under the influence of alcohol or other drugs. **Psychological violence includes controlling or isolating the woman, and humiliating or embarrassing her. Economic violence includes denying a woman access to and control over basic resources.**

At its most severe, intimate partner violence leads to death. Studies of femicide from Australia, Canada, Israel, South Africa and the United States of America show that **40 to 70 per cent of female murder victims were killed by their husbands or boyfriends.**

### Areas requiring enhanced attention

While all forms and manifestations of violence against women require more attention, some have been especially neglected. **Psychological and emotional abuse and violence can take different forms that need to be made more visible and explicitly addressed...**

**Economic abuse and exploitation, including acts such as withholding of income,** forcibly usurping women's wages and denying basic necessities, are manifestations that require greater visibility and attention, especially in the context of growing female participation in the labour force around the world....

More inquiry is also needed about the use of technology, such as computers and cell phones, in developing and expanding forms of violence. Evolving and emerging forms of violence need to be named so that they can be recognized and better addressed.

### Consequences of violence against women

**Violence against women is a violation of women's human rights and prevents women from enjoying their human rights and fundamental freedoms, such as the rights to life and security of the person, to the highest attainable standard of physical and mental health, to education, work and housing and to participation in public life.**

**Such violence perpetuates the subordination of women and the unequal distribution of power between women and men. It has consequences for women's health and well-being, carries a heavy human and economic cost, hinders development and can also lead to displacement.**

## **Economic costs of violence against women**

**Violence against women impoverishes individual women and their families, as well as their communities, societies and nations at many levels.** It reduces the capacity of victims/survivors to contribute productively to the family, the economy and public life; drains resources from social services, the justice system, health-care agencies and employers; and lowers the overall educational attainment, mobility and innovative potential of the victims/survivors, their children and even the perpetrators of such violence.

## **CHALLENGES FOR IMPLEMENTATION**

### **Inconsistent efforts and inadequate resources indicating a lack of political will**

State efforts to address violence against women are neither consistent nor sustained. Many specific shortcomings in efforts to eliminate violence against women at the national level have been identified by the human rights treaty bodies, as outlined in section VI. While the reasons for such a lack of systematic effort may vary, violence against women is generally not treated as seriously as other forms of crime or human rights abuse. The level of investment and resources allocated to legal and support services, let alone prevention, remains minimal compared with many other issues.

### **Lack of a comprehensive and integrated approach**

While there is wide agreement that comprehensive and coordinated multisectoral efforts by multiple stakeholders are necessary to eliminate violence against women, such efforts are rarely forthcoming on a large scale or in a sustained manner. Although models of comprehensive integrated approaches have been developed, these have been sporadically implemented and replication has not always been successful, owing to the absence of vital components, including resources

### **Lack of funding**

Legal, service and prevention efforts to address violence against women require a sustained funding stream. The main sources of funding are States and donors. State funding for such initiatives has historically been inadequate. Funding from donors is often project-driven, not sustained and sometimes not in line with the aspirations of women's groups working on these issues. To ensure viability and sustainability, initiatives on violence against women require funding from the general national budget and not only from specialized funds.

### **Failure to end impunity**

Although efforts to reform criminal justice systems are ongoing, including the enactment of new laws and more effective implementation of legislation, perpetrators of violence against women continue to enjoy impunity. Ensuring that perpetrators are brought to justice is more important than increasing the penalties for violence against women. In fact, demanding draconian sentences and sanctions may have the unintended consequence of decreasing reporting and convictions. At the same time, women lose faith in justice systems where sentences are minimal and fail to offer them any protection.

## **The intersection of multiple forms of discrimination**

The intersection of male dominance with race, ethnicity, age, caste, religion, culture, language, sexual orientation, migrant and refugee status and disability — frequently termed “intersectionality” — operates at many levels in relation to violence against women. Multiple discrimination shapes the forms of violence that a woman experiences. It makes some women more likely to be targeted for certain forms of violence because they have less social status than other women and because perpetrators know such women have fewer options for seeking assistance or reporting.

## **Lack of evaluation**

While research on interventions has expanded considerably, the ability to demonstrate “what works” continues to be limited. Insufficient resources have been devoted to developing methodologies that can trace the subtle and profound changes necessary to end violence against women. Ongoing dialogue between State agencies, NGOs and researchers could contribute to developing and refining new measurements appropriate for various levels of analysis.

## **CONCLUSION AND RECOMMENDATIONS**

### **Conclusion**

As this study has shown, violence against women is a widespread and serious problem that affects the lives of countless women and is an obstacle to the achievement of equality, development and peace in all continents. It endangers women’s lives and impedes the full development of women’s capabilities.

**It obstructs the exercise of their rights as citizens; it harms families and communities and reinforces other forms of violence throughout societies, often with deadly consequences.**

**Violence against women is a violation of human rights, rooted in historically unequal power relations between men and women and the systemic discrimination against women that pervades both the public and private spheres.**

The broad context from which it emerges includes **disparities of power in the form of patriarchy, sociocultural norms and practices that perpetuate gender-based discrimination and economic inequalities**. Its scope and prevalence reflect the degree and persistence of gender-based discrimination that women face, which is often compounded by other systems of domination.

**Violence against women must therefore be addressed in the context of seeking to end all forms of discrimination, to advance gender equality and the empowerment of women and to create a world in which all women enjoy all their human rights.**



This study outlines many forms and manifestations of violence against women in a wide range of settings, including the family, the community, State custody and institutions, armed conflict and refugee and internally displaced persons situations. **Such violence constitutes a continuum across the lifespan of women, it cuts across both the public and the private sphere and one form of violence often reinforces another.** Violence against women often takes a direct physical form, but can also be psychological abuse and economic deprivation. Despite the growing acknowledgment of the multiple forms and manifestations of violence against women, comprehensive data to establish the scope and magnitude of the various forms of such violence remains inadequate.

While violence against women is universal and present in every society and culture, it takes different forms and is experienced differently. The forms of violence to which women are subjected and the ways in which they experience this violence are often shaped by the intersection of gender with other factors such as race, ethnicity, class, age, sexual orientation, disability, nationality, legal status, religion and culture. Therefore diverse strategies that take these intersecting factors into account are required in order to eradicate violence against all women.

Over the past two decades, there has been significant progress in elaborating and agreeing on international standards and norms to address violence against women. These form a baseline of commitment by States and other stakeholders, including the United Nations system, to work to end violence against women. **States' responsibility and obligations to address violence against women are concrete and clear and encompass violence committed both by State agents and non-State actors. States have a duty to prevent acts of violence against women; to investigate and prosecute such acts when they occur and punish perpetrators; and to provide remedies and redress to those against whom acts of violence have been committed.**

To an unacceptable extent, these obligations are not being met. **Impunity for violence against women compounds the effects of such violence as a mechanism of male control over women. When the State fails to hold the perpetrators of violence accountable and society explicitly or tacitly condones such violence, impunity not only encourages further abuses, it also gives the message that male violence against women is acceptable or normal.**

The result of such impunity is not solely the denial of justice to the individual victims/survivors, but also the reinforcement of prevailing gender relations and replicate inequalities that affect other women and girls as well. **There is a significant and unacceptable gap between the international standards on violence against women and the concrete commitment of political capital and resources to implement these standards.**

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