

When the Thai Government proposed a new constitution in 1997, a task force of women from NGOs, various professions and universities conducted a study of the ten previous constitutions to see where bias against women existed and to understand what protections were missing. The task force encouraged women to apply to the committee drafting the constitution, mobilized groups to attend every meeting, met with decision-makers, and conducted several advocacy campaigns. Thanks to their efforts, the new Thai Constitution is the first to address domestic violence and the right of women workers to be free from sexual harassment.

Ending Violence Against Women
UNIFEM Regional Scan for East and South-East Asia

Outlawing Violence Laws and Legal Reform

O

ver the past several decades, many efforts to end violence against women have focused on legal reform. Whether drawing on state commitments from the Vienna Declaration, the Beijing Platform for Action or regional agreements on women's rights, women's groups have marshalled their advocacy power to press for new laws and to win constitutional amendments that uphold women's human rights. They have also turned to international treaties such as the Statute of the International Criminal Court (ICC), known as the Rome Statute, which defines rape and other gender-based violence as constituent acts of crimes against humanity and war crimes.³⁴

Thousands of women flooded the streets of San José, Costa Rica to demand an end to

gender-based violence on 25 November 2002.

PHOTO BY KENT GILBERT—AP/WIDE WORLD



Governments in turn have worked with women's groups and international organizations to align their legal codes with human rights standards, making many forms of violence against women — including domestic violence, rape, sexual harassment, female genital mutilation and trafficking — criminal offences for the first time. In Latin America and the Caribbean as of 2002, 31 countries had ratified the Inter-American Convention to Prevent, Sanction, and Eradicate Violence Against Women (Belém do Pará), the only international legal instrument to focus entirely on violence against women.³⁵ Many other nations in the region have elaborated legislative measures they plan to take with regard to violence against women.³⁶ The Inter-American Commission on Human Rights (IAHCR) has heard individual cases under the Belém do Pará Convention, and the judgements have, in turn, influenced national law. In Guatemala, for example, civil code provisions that assigned specific roles to spouses within marriage were amended or repealed as a direct result of a case brought by a single citizen before the IACHR.³⁷

In addition to pushing for new legislation, attorneys and advocates acting on behalf of female litigants have successfully applied existing laws to cases of gender-based violence. Almost every country of the world has a penal code that prohibits assault in some form, and these provisions are sometimes used for prosecuting cases of violence against

The need exists to strengthen legal action to combat violence against women.

Women often lose their cases in court because of insufficient evidence.

Moreover, judges and justice auxiliaries are products of the society and their view of violence against women is likely to be coloured by cultural and subjective perspectives that are sometimes unfavorable to women.

– UNIFEM Regional Scan, Francophone West Africa

women. In Finland, for example, general assault legislation is used to successfully address all forms of gender-based violence. In India, activists are bringing cases concerning women's rights and economic and social rights to the Supreme Court under a provision that allows anyone to petition the Court on behalf of an individual or group that has suffered some wrong.

Activists have also encouraged the use of international human rights standards as the basis for national and local judgements, helping to lay the groundwork for women seeking justice. In East Africa, for example, the International Women Judges Federation has been working with universities and judiciaries to promote the use of international human rights instruments in national settings.

Initiatives to integrate women's human rights into constitutions and legal codes necessarily rely upon the various institutions of the state in order to be effective. Laws are the building blocks, but the overall project of gender equality is linked to the establishment of the rule of law. And that requires a legislature that understands the importance of gender equality for society and for eliminating violence

against women. For this reason, countries such as Argentina, Austria, Ghana, India, Italy, Peru, Senegal and Timor-Leste have experimented with quotas for women's representation, and the CEDAW Committee urges governments to reach a minimum of 30 per cent representation by women. Although not all women in government are supporters of women's rights, most have experienced some discrimination and abuse and understand the importance of protecting and supporting women. They can use their position to push gender equality forward, especially when they work with women's caucuses that reach across political parties.³⁸

Gender bias within the entire criminal justice system itself must be addressed. Efforts in this area have focused on ensuring that police understand the human rights standard as it applies to women, establishing women's police stations and sexual crime units, and teaching health-care providers how to collect forensic evidence sensitively yet thoroughly. Lastly, a focus on the rule of law should not fail to take into account concepts of restorative justice, such as truth and reconciliation commissions that have been used in countries emerging from protracted armed conflict or, in the case of South Africa, from the period of apartheid oppression.³⁹

Legislating Against Gender-based Violence

The new and revised laws that have emerged in the wake of international and regional treaties and norms can be broken down into two categories. First are those laws that directly target specific forms of violence such as sexual harassment and domestic violence. Such legislation typically includes provisions for punishment of perpetrators and protection of victims. Punishment may encompass monetary fines and jail time as well as counselling for perpetrators in an attempt to prevent future abuse. Protection can include provisions such as restraining orders or removal of an abuser from the home. More progressive legislation includes provisions for implementing the law, such as the development of national action plans to end violence and training for professionals in the legal and health sectors.

The Philippines' Anti-Rape Law of 1997 is a case of successful lobbying to create a new law to replace one steeped in gender inequality. Under the old legislation, rape was considered a 'crime against chastity' instead of violence against a person. It was up to the woman who had been raped to prove that she did not willingly surrender her virginity. Rape was also categorized under family law instead of criminal law, limiting the legal response. Over a period of three years, women's groups rallied for a better law. As a result, rape is now defined as violence against a person and is defined to include oral sex and acts of sexual torture.⁴⁰

The second type of legal response amends general legislation that already punishes perpetrators by creating greater protection for women. Many countries have taken this approach, revising existing laws to handle violence against women more forcefully. In Sweden, for example, laws were adapted to provide more severe punishment for criminal acts by men towards women they have a close relationship with, as compared to the same acts committed by men who are strangers to their victim.⁴¹ In both Israel and Tunisia, domestic violence is subject to a greater penalty than other acts of violence or assault.⁴²

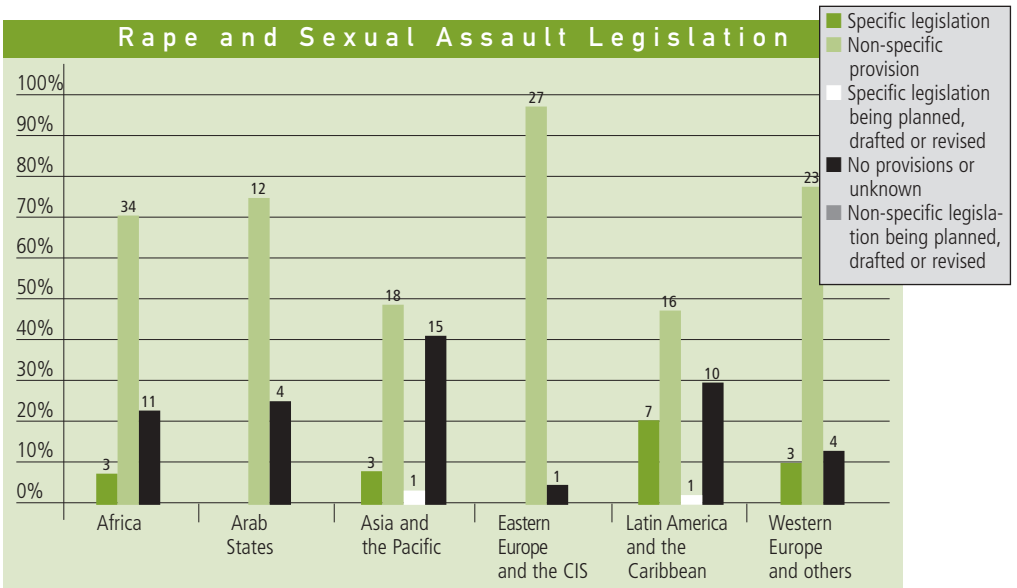
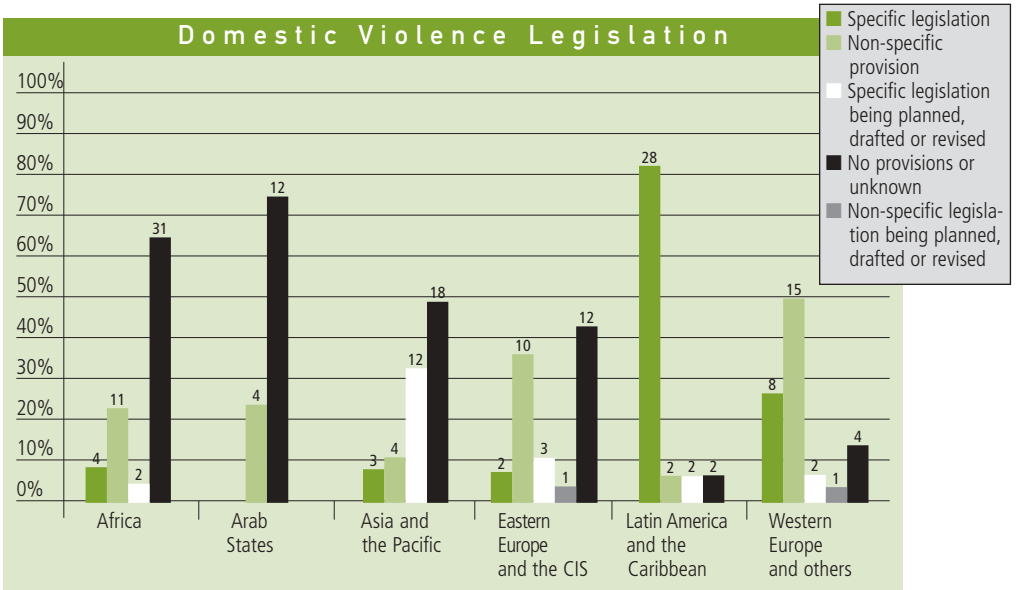
Legislating Against Domestic Violence

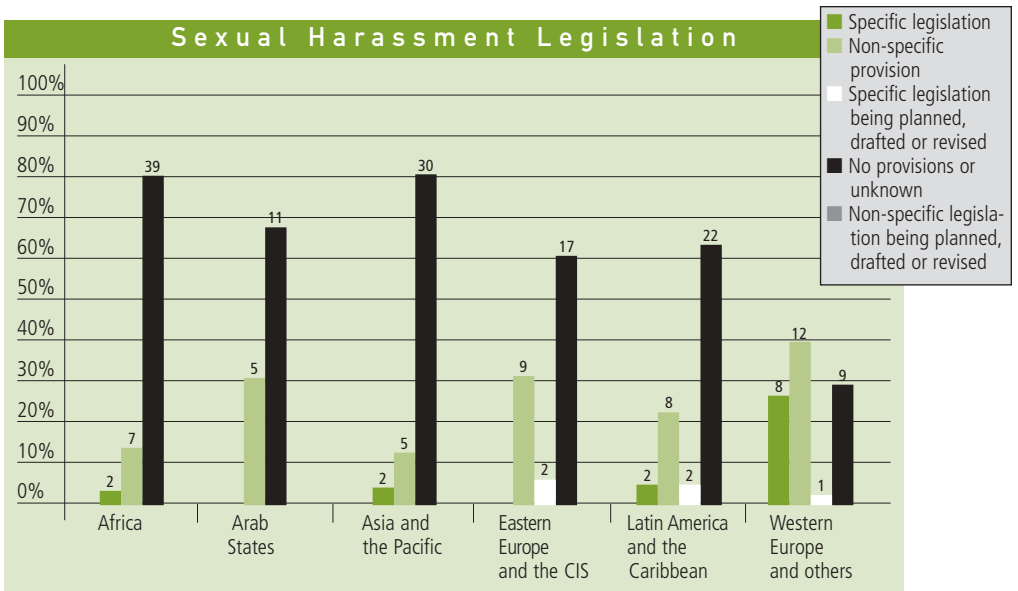
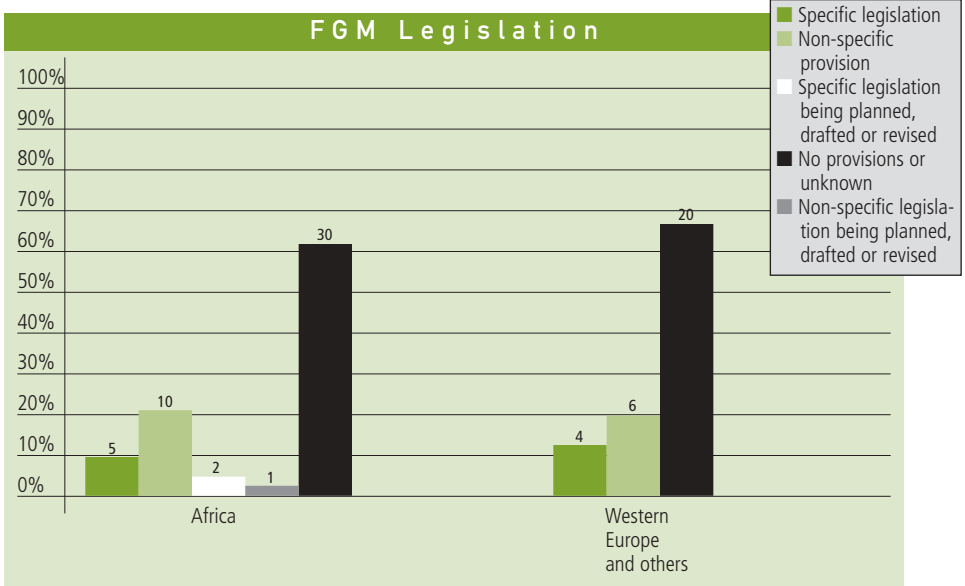
Today, many countries have some type of legislation concerning violence against women, most commonly against domestic violence. This area has been a priority for women's rights advocates, who have emphasized the state's responsibility to address the widespread violence that occurs in the home. Marital rape is now recognized as a crime in as many as 50 countries including Austria, Belarus, Bhutan, Cyprus, Hungary, Mexico, Nepal, and the Seychelles. At least 45 nations have specific legislation against domestic violence, 21 more are drafting new laws, and many countries have amended criminal assault laws to include domestic violence. The sanction of criminality in cases that were once considered mere misdemeanours helps ensure that violence will not be treated as an acceptable societal norm, and can serve as a deterrent when assailants realize they will face punishment.

Nevertheless, sharing a home, children and money raises considerations that cannot be covered by criminal sanctions alone. Thus, many groups advocate legislation that com-

binés civil and criminal remedies — some laws include protection orders and provisions regarding children and the sharing of property or income.⁴³ In Colombia, Costa Rica and many municipalities in the United States, aggressors must attend therapy sessions.

Some of the most innovative laws recognize the complexity of abusive relationships and are formulated to provide real protection. In Panama, for example, a survivor of domestic violence can only seek to dismiss charges if the violence has not been repeated within a specified time period and if the defendant is involved in evaluation and treatment.⁴⁴





Tracking Legislation

Unfortunately, there has not been similar progress when it comes to rape, sexual assault and harassment. Only 16 nations have distinct legislation referring to sexual assault, while as few as three have legislation that specifically addresses violence against women as a category of criminal activity in itself.⁴⁵ Fourteen countries have adopted laws on sexual harassment, often in the workplace or in the education sector, while another 46 have provisions related to sexual harassment in non-specific legal codes. A mere nine countries have specific legislation outlawing FGM.

The preceding charts provide a snapshot of laws on violence against women that utilize the two types of legislative measures discussed earlier — laws that specifically address particular forms of violence against women and non-specific legislation that contains explicit provisions regarding violence against women (see Appendix 1 for a country-by-country list).

Shortcomings of Legislation

The laws that have been passed or amended in the last decade reflect recognition by governments that they must take measures against violence against women. But there is much more to be done. Very few nations have laws that address violence against women during armed conflict, for instance. And of the many laws that have been passed, a significant number have never been adequately implemented or enforced. Experts and activists around the world note that the majority of cases of violence against women are not reported, and those that are reported often do not result in successful prosecutions. Whether the problem lies with the way a law has been drafted or how it is implemented, it is becoming clear that creating a legal response to violence against women that genuinely respects women's human rights is a complex and long-term project. Ensuring women's access to justice means that governments must commit to establishing a rule of law that factors in all the issues that affect implementation and exercise due diligence to prevent, investigate and punish violence against women.

Closing the gap between the laws on the books and their implementation is one of the most pressing concerns of anti-violence advocates. There are many reasons that legislation is not implemented: Laws are not taken seriously or are selectively applied; the appropriate enabling legislation is not passed; inadequate provisions are made for enforcement; or the resources allocated for implementation are insufficient.

Women's organizations have played a central role in monitoring the implementation as well as the actual impact of laws and are generating proposals for changes. The ability to enact laws effectively relies on addressing gender biases throughout society. Unless that happens there may not be enough support for implementing laws that have been passed or for remedying the shortcomings that remain.⁴⁶ The persistence of stereotypes, the reluctance of law enforcement officers to take action, the difficulty of getting prosecutors and judges to acknowledge violence against women as a serious crime all underscore the fact that the legal framework is only a starting point for ensuring justice for survivors of violence.

Legislation Embedded in Patriarchy

Despite the progress made in creating new legislation, many women still suffer under patriarchal laws that provide them with few, if any, rights. Criminal codes entrenched in notions of honour and chastity are the basis for laws that protect men at the expense of women. Rape laws, for example, sometimes provide loopholes for perpetrators by dropping charges if the rapist marries his victim as is the case in Cameroon, Ethiopia and Romania.⁴⁷ Other countries may require a witness to a rape or domestic violence before a case can be brought to court, even though both types of attack rarely occur in public. Even nations that have revised their laws in other ways still allow a woman's sexual history to be used against her in court. Numerous countries refuse to recognize spousal rape in domestic violence laws, and those that do have laws against it often provide exemptions that make the role of male power in family law explicit. In the United States, for example, in 1999 33 states had exemptions to marital rape laws, many of which spared a husband from prosecution if his wife was mentally or physically impaired, unconscious or asleep and legally unable to consent.⁴⁸

Civil laws that appear to have little to do with violence also have an impact on women's ability to protect themselves and assert their rights. Laws that restrict women's right to divorce or inheritance, or that prevent them from gaining custody of their children, receiving financial compensation or owning property, all serve to make women dependent upon men and limit their ability to leave a violent situation.

Given the prevalence of gender inequality, even many new laws ostensibly created to protect women fail to do so. In the case of trafficking, some new laws have focused on economic issues and border monitoring, and restrict the legal migration of women without dramatically stopping trafficking. Many women, whether they have been trafficked or not, are caught in a legal maze and may end up being punished for entering a country illegally instead of being provided with services. In the same vein, domestic violence laws may emphasize family reunification rather than preventing further abuse, which places women's lives at risk, particularly since domestic violence tends to escalate over time. In some cases the law may even place a share of the blame on the woman who has been abused. In the Ukraine, activists successfully pushed for the passage of new anti-domestic violence legislation recently. But their victory was only a partial one: Provisions were added to the law allowing police to arrest women for provoking violence through 'victim behaviour'.

Laws shaped by patriarchal notions may also set forth measures that do not match the crime in question. Punishments can be either too lenient or too severe. Cases that should be felonies are tried as misdemeanours, or civil remedies alone are employed without criminal punishment. On the other hand, some legal sanctions may be so harsh that legal authorities are hesitant to fully prosecute a perpetrator.

Public consciousness also dictates the outcome of cases involving violence against women. When public awareness about the criminality of domestic violence or other forms of gender-based violence lags behind legislation, juries may be unwilling to convict, especially if the sentence involves long years of prison time. Ultimately the fact that some laws are not enforced or are seen as inappropriate weakens all laws prohibiting violence against women.

Limited Scope of Gender-based Legislation

Although laws in some countries have been revised to recognize various forms of violence against women, many do not go far enough. Criminal and civil code revisions in particular focus on specific types of violence against women, such as domestic violence and rape, and leave out other abuses. Even within the new provisions definitions may leave out the full range of sexual assault, especially those governing the prosecution of rape. In the case of sexual harassment, laws tend to be limited to particular settings, most commonly the workplace or the education system.

Laws, whether general provisions or specific pieces of legislation, usually fail to take into account the context in which violence occurs and so may not be able to provide the help needed. Few laws consider the abysmal conditions suffered by women migrants — both women who have been illegally trafficked as well as domestic workers employed in foreign countries — who are often imprisoned in homes or brothels without access to outside help. If they manage to approach the authorities, they are often arrested for entering a country illegally or for lacking a passport, which usually has been taken from them by traffickers.

The lack of recognition of what it takes for a woman to bring a case of violence to the authorities effectively discriminates against women seeking protection. A woman may not report instances of violence if her spouse will be detained, or for fear of losing a family income or even her home if she has no property rights. Concerns over child care, financial considerations, social stigmas and family pressure all impact a woman's ability to pursue legal recourse. In countries where women's mobility is limited by law or by custom, filing a case or even receiving medical attention may be out of her reach. In Saudi Arabia, for example, women may not be admitted to a hospital without the consent of a male relative.⁴⁹ Some countries have taken steps to remedy this situation, as in Tunisia where revisions to the Personal Status Code have replaced the concept of wifely submission to a husband with one recognizing mutual treatment between spouses.⁵⁰ In a unique move, a 1998 presidential decree in Tunisia also created a national fund to provide financial support to women whose former husbands did not make regular alimony and child support payments.⁵¹

A Woman's Right to a Fair Trial: Sensitizing the Judiciary in South Asia

As judges they had seen numerous cases involving domestic abuse, dowry-related violence and rape. They felt they understood the problem, and could not fathom why they were being asked to visit a women's shelter. Nevertheless, they agreed to go as part of a training programme that the highly respected Chief Justice of India, A.M. Ahmadi, had recommended.

When they entered the shelter, the judges met women whose cases had been thrown out of court and others who had been burned, battered and/or raped, but who had never appeared in court. Some had been too ashamed, some couldn't afford legal help and some were forced by their families to remain quiet. Witnessing first-hand the physical and emotional pain of survivors and speaking to them face-to-face affected the judges deeply. "Their visits made a great difference," recounts a woman who accompanied the judges. "One justice later insisted that all of his colleagues must go to the shelter."

The visits were part of a training organized by a well-known Indian women's NGO, Sakshi. With a grant from UNIFEM, the Sakshi staff conducted research on women's rights in the judicial system and used their findings to train judges on gender equality. One of the most disturbing research findings was that less than 10 per cent of the defen-

dants in rape trials in India are convicted, and those who are sentenced receive mild punishments. The research fuelled Sakshi's determination to help judges understand what survivors of domestic and sexual violence endure in and out of the courtroom.

In addition to shelter visits, the trainers use interactive dialogue, small group problem solving and meetings with NGOs to give judges a better understanding of women's needs. Later some judges asked to become trainers themselves, and they are now educating their peers.

In partnership with NGOs and judges, Sakshi has expanded its efforts throughout the region to Bangladesh, Nepal, Pakistan and Sri Lanka. The group is also working to incorporate gender equality education into law schools and judicial training institutes. Nevertheless, say Sakshi staff members, the real change must take place in the courtroom. "Judges will need to be more sensitive to the needs of the individual woman," insists Sakshi's Executive Director Naina Kapur. Justice Ahmadi agrees. In a speech at a regional meeting for judges in South Asia, Ahmadi urged his colleagues to understand that, "we all carry biases within us and reflect them in the quality of justice that we make available to women."⁵²

Systemic and Pervasive Gender Discrimination

Perhaps the greatest hindrance to women's full use of legal remedies is the failure of governments to fully implement the laws that are on the books. In the UNIFEM scans nearly every area reported failure to implement anti-violence legislation as an egregious problem. Too often the judiciary or the police who investigate cases either do not understand new laws or do not want to use them. The Organization of American States

In interviews throughout the region, government officials and criminal justice system professionals focused on the behaviour of women rather than the criminal conduct of men in cases of violence against women, including domestic violence, rape and sexual harassment. Many of those interviewed reiterated conflicting negative stereotypes of women as too demanding, too controlling, too malleable, too servile, too weak, too jealous, not caring and manipulative. In many countries these negative stereotypes dictated the police and government response to violence against women.

— UNIFEM Regional Scan, Central and Eastern Europe and the CIS

Bangladesh, Brazil, India and Thailand among them — special police stations and desks have been set up for women, with private reception areas so victims do not have to give statements in full view of a room full of strangers. Police in these stations have received

reports that in the Dominican Republic, most judges and representatives of the judiciary are unaware of or simply prefer to ignore the nation's family violence law and fail to enforce it, which prevents the law from having any effect in practice.⁵³ And according to a study in India, 48 per cent of judges interviewed agreed that it was justifiable for a man to slap his wife under certain circumstances, and 74 per cent endorsed the view that preservation of the family should be the primary concern for women even where there was violence in the marriage.⁵⁴

Rape survivors in many countries still describe judges who continue to view rape as an attack not on a specific woman but on the honour of her family, particularly the men in the family, even though progressive laws have been passed. This may mean that different punishments will be meted out depending on the sexual status of the woman — implying that the rape of a woman with a 'past' is less serious than other rapes, since she has no 'honour' to be defended. In cases where the law is ambiguous, judges may revert to less severe penalties under civil rather than criminal codes. Often women are so humiliated by the way the authorities treat them, they refuse to testify in court. Even when convictions are reached, gender bias persists, as in the case of a judge in the United States who claimed that "an 11-year-old girl was partly to blame for a 23-year-old man sexually molesting her because the girl invited him into her bedroom and 'it takes two to tango'".⁵⁵

In country after country, women report that the police are also insensitive and may fail to adequately investigate gender-based crimes. Some women have reported that when they went to the police to report a rape, male officers would make light of it, even asking whether they enjoyed the experience.⁵⁶ Recognizing the need for improvement, women's organizations have instituted training programmes for the police, judges and prosecutors. In a number of countries —

specialized training on violence against women, and new rules and regulations have been introduced on the treatment of victims.

All these examples point to the need for extensive training in the criminal justice system on the nature of gender-based violence and the inequities that limit women's access to justice. Such efforts have been taking place worldwide for many years — but the scope of the effort needs to be increased. In Uganda, the Women and Children Protection Unit of the police force, through a grant from UNIFEM, has instituted training for officers, most recently in zones of armed conflict where refugees require special attention. Women's organizations such as Sakshi (see box, p. 45) and others in South Asia have been working closely with the judiciary so that judges better understand the obstacles women face in bringing cases of violence before a court. The United Nations Latin American Institute for Crime Prevention and the Treatment of Offenders (ILANUD) has implemented regional training programmes on domestic violence, taking a multidisciplinary approach, working with lawyers, judges, prosecutors, forensic units, the penitentiary system, NGOs, universities and other organizations.⁵⁷ The long-term success of such efforts will depend on how well strategies to sensitize police officers, lawyers and judges are incorporated into standard curricula at training academies and schools.

The Impact of Other Forms of Discrimination

Gender-based biases are compounded by discrimination based on race, class, caste, age or physical disability (see also p.77). Legal officials may take crimes of violence against ethnic minorities or immigrant women less seriously than they do crimes against majority women. For example, systematic discrimination and violence against Roma communities by police in Croatia and the Czech Republic have made Roma women unwilling to seek assistance from the authorities.⁵⁸ In many countries, police tend to ignore attacks on minority women, often writing them off as part of the 'culture'. And if a minority woman accuses a man from a majority group, officials may simply disregard the woman's complaint, claiming it is a false accusation. Resentment against increasing immigration has led to many instances where authorities look the other way when violence against immigrant women occurs. As more and more women migrate in search of work and a better life, the importance of providing services and protection will grow, yet this remains an area in which very little has been done.

Class bias also comes into play in laws that are limited to those who can afford them. In Egypt and Jordan, a provision was added to the divorce laws stating that a woman can unilaterally divorce her spouse if she pays him a sum of money.⁵⁹ Although the law was welcomed in those countries since it finally allowed women the right to choose divorce, it was limited to women of means. In other countries, a woman who

brings a charge of sexual assault or domestic violence must find funds for forensic exams and pay for transportation between the offices of social workers, lawyers and the courts — all while taking time away from work.

Resources allocated towards implementing new legislation may be skewed in favour of particular segments of society. Frequently, model projects are created in national capitals but cannot be replicated in the countryside, where the majority of the population lives. Class and racial discrimination also play into the allocation of resources. Nowhere is this more apparent than in South Africa, which is struggling to break free of the social and economic legacy of apartheid. In predominantly white areas of Pretoria, police stations have rape suites with piped-in music and comfortable furniture, where rape survivors can report a crime in private. Just a few miles away in predominantly black Alexandria township, however, there are no suites, no music, no soothing surroundings. Rape victims are deposited in public rooms filled with officers, other victims and criminals.⁶⁰

Beyond Legislation on Violence

Legislating against violence against women takes place within a larger legal framework that affects family and economic life. Family laws governing divorce, for example, affect a woman's pursuit of justice when domestic violence occurs. In Israel, under personal status law, a Jewish woman can only initiate divorce proceedings with her husband's permission.⁶¹ On the other hand, in Switzerland, federal marriage law stipulates that assets be divided equally — but if income is too low to support both parties above the poverty level, the assets go to the primary wage earner (usually the husband) and the wife and children are left to subsist on public assistance.⁶²

Equality in public life, including in the workplace and in politics, also influences women's ability to assert their rights with regard to gender-based violence. In Cameroon, the law allows a husband, 'in the interests of the household and family', to oppose his wife's decision to work or to stop her from engaging in any commercial activity.⁶³ Likewise, the lack of rights to own or inherit property keeps women economically dependent and a dependent woman is likely to hesitate before filing a complaint of abuse. Conversely, equal opportunity laws can empower women to act on their legal rights with regard to violence by promoting their rights to work, to equal wages, to freedom of movement and to freedom from discrimination in the public sphere.

Customary law, based on group traditions, may also affect or supersede anti-violence legislation. In many countries, early marriage may be prohibited by formal legal codes, but not by customary and religious laws or practice.⁶⁴ There may also be separate laws for groups within a country, as in Suriname where the Asian Marriage Law stipulates that Asians can marry at 13, two years younger than the legal age required for everyone else in the nation's civil code.⁶⁵

Working with the Law to Stop Trafficking in Moldova

After the lights came on, the young police officer could not look up. The short movie depicted the true story of a girl who was duped into believing that she would be a dancer in Italy, and ended up with no passport, no money and no way out of one of Kosovo's most infamous brothels. She was one of over 10,000 Moldovan women trapped abroad in the sex industry.⁶⁶

Trainers from the Women's Organization of Moldova (WOM) knew the film was disturbing, but that was the point. The impact was visible: Everyone in the room of law enforcement personnel, university students and NGO representatives had a comment — except the young officer. "We were all waiting for him to lift his head and say something, but he kept looking at the floor," said Irina Martiniuc, President of WOM. "Finally he told us that his sister had just been hired several weeks ago to be a dancer in Italy. The family was so proud...then this grown man began to cry. We had not expected that at all."

Moments like this illustrated to the participants in the WOM workshops the importance of taking action to stop the trafficking of women and children. As part of a UNIFEM-funded initiative, WOM staff brought together police officers, students and women's NGOs to promote dialogue and debate. "These groups have such different opinions about women's rights and trafficking," explains Martiniuc. "We felt they needed to come together to understand the issue better."

While the interaction between these groups

was difficult, the greater challenge was getting them to come in the first place. Most of the police officers were apathetic about the issue, believing that women who were trafficked had chosen their own path. "So many officers told us they didn't need a training to help them understand prostitutes," said Martiniuc. "First, we convinced the police chiefs to make the training mandatory. Then we used the training to show them the real story."

WOM staff ended each session with a question: "Where do we go from here?" The answer to that question has taken them far. Since the first training in 2000, police officers have distributed information and brochures to precincts throughout the country. WOM has created a National Advisory Board to Combat the Trafficking of Women, and has published a book of local and international documents on women's rights. One of their greatest achievements, they believe, is statute 113, a new law that makes it more difficult for traffickers to transport women and children across the borders between Moldova and Romania. "The new law is not sufficient on its own," admitted Martiniuc, "but it's an important start."

With other NGOs and the International Organization for Migration, WOM has since lobbied to bring laws into full compliance with the UN Convention on Transnational Organized Crime (see p. 21). As a result, a new criminal code was adopted in April 2002. WOM and other NGOs are now partners with the Government in implementing an action plan to combat trafficking.

In other cases, customary institutions are called upon to adjudicate cases of family conflict, and tend to support traditional expectations of male authority. In Uzbekistan, for example, police often send women to the *mahallah*, an institution of communal self-governance, when they file a domestic violence complaint. There the women are encouraged to reconcile, and perpetrators are rarely held accountable.⁶⁷ Many Pacific Island countries legally recognize customary law, which may be applied through the formal legal system or in special courts.⁶⁸ In Samoa and Vanuatu, village level structures are the most immediate and accessible, but they often fail to punish perpetrators, focusing on preventing family or community conflict rather than meeting the needs of women and girls who have experienced violence.⁶⁹

In some contexts, customary law may be used in ways that would not have been applied traditionally to sexual offences. In Fiji, *bulubulu*, a traditional apology, was not applied in the past to rape cases. But today, if a family accepts *bulubulu* for rape, the rapist may use the acceptance to reduce his sentence.⁷⁰

Building Broad Support for Laws

Changing attitudes and cultural perceptions can take a long time. But in the short term, legislation can have a powerful impact if there is political will to implement it. Careful implementation of laws designed to provide women with equality and protection can help create an environment where women's rights become the norm.

To ensure that laws are actually put into practice, training is needed for all sectors involved in handling cases, including the health-care and social service sectors, as well as police and judiciary. A service infrastructure must be developed that includes trained professionals who can provide proper forensic examinations, shelter care and legal and psychological counselling. Some countries have built such provisions into their laws. In Honduras, the 1997 Law against Domestic Violence includes provisions for family counselling offices. Implementation also requires monitoring, a task that is all too often left to women's machineries, which tend to be under-funded and lack influence. NGOs' monitoring role is important for accountability, but they lack resources for national coverage and many would welcome associations with mainstream human rights organizations that have a broader public outreach and political influence.

Past attempts to ban FGM provide examples of the ways in which gender bias, customary practice and lack of political will can all work together to cripple progressive legislation. During the 1990s, several countries including Côte d'Ivoire, Egypt and Senegal attempted to ban or limit FGM. Since FGM had taken on added cultural significance during colonial periods — communities committed themselves to the practice with greater intensity as a means of resisting cultural imperialism, and efforts to ban it met with nationalist revolts in Egypt and Kenya⁷¹ — it was essential that countries attempting to

limit it provide training to help officials and the public see the practice in a new light. But the money was not allocated. In addition, women who performed excisions vehemently opposed legislative bans. Often powerful leaders of their communities, these women had no other means of supporting themselves.

The laws lost their potential power to promote change because the full context in which FGM occurred was not taken into account. If local leaders had supported the laws, and alternatives to FGM had been promoted, the outcome might have been different. Although it is too early to tell what the effects will be, Mali has attempted a broader, multisectoral approach that deals with FGM on many levels. The Association for Monitoring and Guiding Traditional Practices, an umbrella group of community-based organizations, has tried to build support for a ban by organizing discussions with traditional authorities, opinion leaders, religious authorities and local women and men. The discussions focus not only on the importance of implementing laws but also on the social, cultural and economic impact of a ban. In Kenya, the Programme for Appropriate Technology in Health (PATH) and Maendeleo Ya Wanawake Organization have taken a slightly different approach. With support from UNIFEM and a number of other UN agencies and donors, they have successfully introduced alternative rituals to FGM that celebrate the passage of girls into womanhood.⁷² And in Senegal, the NGO Tostan has worked with the Government, UNICEF and a number of NGOs to create educational campaigns that have led to public declarations to ban FGM by hundreds of villages.⁷³

FGM is a perfect example of the wide reach new laws must have: They must account for civil considerations as well as criminal and must recognize the role of social, cultural and economic factors in encouraging behaviour that harms women. To implement legislation in ways that guarantee maximum impact, it must be paired with national action plans that foster multiple approaches to protecting and supporting women.