
LEGISLATIVE WINS, BROKEN PROMISES

Gaps in implementation of laws on violence against women and girls

CHRISTINE HUGHES

OXFAM CANADA

This multi-country research report examines the problem of “implementation gaps” – government failures to fulfill their legislative obligations to address and prevent violence against women and girls (VAWG). It presents a comparative analysis of shortfalls between government commitments as laid out in laws, and the realities for VAWG survivors as they try to access services and justice. Drawing also on positive examples, lessons are shared about what can be done to improve the implementation of VAWG laws, and how civil society organizations can more effectively hold governments to account, so that laws can have a greater impact on ending VAWG.

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EXECUTIVE SUMMARY

Violence against Women & Girls (VAWG) is one of the most horrific expressions of gender inequality and violations of human rights in the world today. International human rights agreements obligate states to take action to end VAWG, and due in large part to the struggles of women's and feminist organizations over the last 30 years, today, over 125 countries around the world have some sort of legislation on VAWG. Whether criminal or civil in nature, these laws send the message that VAWG is not acceptable, and lay out both punishments for perpetrators and commit governments to provide services for women and girls who experience violence.

Despite these laws, the global prevalence of VAWG remains disturbingly high. Over one-third of ever-partnered women worldwide have experienced physical or sexual violence, one in five women have been abused as girls, and tens of millions of girls every year are at risk of female genital mutilation/cutting (FGM/C), early or forced marriage, and sexual violence while pursuing their education. Legislation alone will not eliminate VAWG, but these laws could have a lot more impact on reducing the prevalence of VAWG if they are consistently supported by effective implementation. Unfortunately, there is mounting evidence to show that implementation often has serious deficiencies.

This Oxfam report, based on research conducted in seven countries in the Global South, examines the problem of "implementation gaps" – the shortfalls between governments' legislative commitments to address and prevent VAWG, and the on-the-ground realities in terms of prevention, access to services, and access to justice for women and girls who experience violence. It will be of interest to government officials and policy makers, institutional actors involved in implementing VAWG laws (e.g., law enforcement, the judiciary), non-government organizations (NGOs) and women's rights organizations (WROs), and academics and activists committed to ending VAWG.

ABOUT THE RESEARCH

This research project was a collaborative, co-created initiative among Oxfam and researchers in seven countries – Benin, Bolivia, Burkina Faso, Dominican Republic, India, Malawi, and Nicaragua. It was facilitated by Oxfam's Knowledge Hub on Violence against Women & Girls/Gender-based Violence.

Through literature reviews, policy analyses, and interviews with key groups of stakeholders, the research set out to answer five main questions:

- What types of implementation gaps exist?
- Where or among which actors do the gaps occur?
- What are the main reasons that explain implementation gaps?
- What is needed to improve implementation?
- What could Oxfam and other CSOs do better or differently to influence relevant actors to better implement VAWG legislation?

Taking a comparative approach, this report presents a summary of findings in each country, as well as a synthesis of key lessons and messages on both how implementation of VAWG laws can be improved, and how Oxfam and its allies can strengthen efforts to influence duty-bearers to fulfill their governments' commitments.

In addition to focusing on shortfalls and failures of implementation, the research also examines what *is* being implemented relatively well and why, so that lessons can be drawn from those cases and experiences. Two of the countries – Burkina Faso and Dominican Republic – were identified as having better implementation of VAWG legislation, and participated in the project as “positive deviance” examples.

KEY FINDINGS

Despite significant differences in the VAWG legislation across the seven countries, significant similarities emerged in terms of implementation gaps.

First, those responsible for implementing VAWG laws are failing to effectively follow the processes and procedures required of them. These shortfalls relate to how women's reports of violence are handled, the measures of protection that women should be afforded to prevent further harm, and the enforcement of court orders. Second, there are significant deficiencies in VAWG infrastructure and services. These include shelters, counselling, and legal aid services for women and girls who experience violence, as well as proper detention facilities for perpetrators. Third, there are serious problems with how women who have experienced violence are treated as they try to access justice and support services. Oftentimes, they are re-victimized, blamed, not believed, or dissuaded from pressing charges.

The research found 14 explanations for these implementation gaps across the seven countries, and examines five of the most cited ones in greater detail. First, legislation is not accompanied by sufficient financial resources from the state for implementation. International funding is important, but not sustainable. Second, those responsible for implementing the law often do not have the information, awareness, and skills they need. Many do not know the law well or what their obligations are, and training is insufficient or not sustained adequately over time. Third, there is insufficient coordination and clarity of roles among key stakeholders, such as law enforcement and service providers, who must work together to implement the law. Fourth, individual attitudes and social norms that condone VAWG and gender inequality shape the behavior of implementing actors in ways that are detrimental to survivors. The research thus demonstrates the links between the sociocultural and the political. Finally, political will – the state's demonstrated prioritization of VAWG as a central concern – is sorely lacking, reflected in corruption, poor accountability compliance, and lack of budgetary allocations.

Implementation of VAWG legislation in the Dominican Republic and Burkina Faso, while far from perfect, presents some good lessons. For instance, the Dominican Republic has made significant strides in establishing the institutional infrastructure and the training necessary for women to access services and justice. Much of this is attributable to effective coordination and cooperation among key stakeholders, and a well-organized feminist movement that is willing and able to collaborate with the state while maintaining independence and a critical stance. In Burkina Faso, where research focused on penal code provisions that outlaw FGM/C specifically, penal approaches have been combined with strategies aimed at lowering the social acceptance of FGM/C. Keys to progress in this case include considerable political will and action plans supported by international funding.

KEY MESSAGES AND LESSONS

Based on the implementation gaps and limited successes highlighted by the research, this report discusses what needs to be done to improve implementation of VAWG legislation, and to more effectively hold states to account. To improve implementation, the report emphasizes the importance of: adequate institutional infrastructure for access to justice and to services; elements to facilitate the “how” of implementation, such as action plans, regulations, protocols, and training; sufficient political will and financing from the state; effective monitoring and evaluation of implementation; a focus on preventing VAWG through reducing its social acceptance, not just addressing incidents through services and punishments; and the active involvement and leadership of WROs.

The state is ultimately responsible for implementing its legislative commitments, but experience shows that civil society organizations (CSOs) must strongly and continuously urge it to do so. The report shares lessons from some successes in this regard. Although relationships with government can be fraught with difficulty, CSOs and WROs need to find openings for engagement. They are encouraged to: be well organized among themselves and creative in their advocacy; be willing to collaborate with the state; establish themselves as sought-after experts; and propose detailed demands for better implementation.

The spirit and promise of laws on VAWG have not been sufficiently fulfilled because many states have not risen to the challenge – and obligation – of implementation. Even in struggling countries, there are steps that every institutional actor can take – ideally in concert with others, especially WROs – to improve implementation. This report adds to the evidence base that duty-bearers are not doing enough to fulfill their commitments, but also contributes to the knowledge base about what needs to be done – and has worked – in order to strengthen the impact of laws on the elimination of violence against women and girl.

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