
BEYOND CRIMINALIZATION

**A Feminist Questioning of
Criminal Justice Interventions
to Address Sexual and
Reproductive Rights Violations**



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INTRODUCTION

In solidarity with all the people facing injustices; we dedicate this work to you.

Criminalization is the social and political process by which society determines which actions or behaviors – and by who – will be punished by the state. At the most basic level, it involves passage and enforcement of criminal laws. While framed as neutral, decisions about what kinds of conduct to punish, how, and how much are very much a choice, guided by existing structures of economic and social inequality based on race, gender, sexuality, disability, and poverty, among others.¹

1. "The Crisis of Criminalization." Barnard Center for Research on Women, March 2017.

Activists, feminists, donors, and governments have - for years, examined and proposed different approaches to addressing violations of sexual and reproductive rights, (including all types of gender-based violence), that provide justice to survivors and their communities, but also prevent violations from happening again.

Addressing rights violations through the proclamation of a law is one of the more popular solutions adopted by states. By passing a law that criminalizes for example, early and child marriage, female genital mutilation, or intimate partner violence, governments are signaling to society that they refuse these acts; what is known as the “normative value of the law.”² This aims to, in turn, act as a deterrent, an element to prevent individuals from committing the violation out of fear of being apprehended by law enforcement officials. While this works in theory, in practice it has not proven to be effective enough - and in some cases not effective at all - to prevent and put an end to sexual and reproductive rights violations. As a result, many feminists today find themselves at a crossroads. Champions of the landmark violence against women law in Brazil, which aimed at changing both criminal and civil justice systems’ responses to women’s claims, are now questioning the push for more criminal laws, as they realize that practice, implementation, and resource mobilization are the more important catalysts for an effective response to violence.

Feminists from other countries and regions are also questioning the need to push for more laws and stricter punishments given that existing laws have fallen short of providing justice. This includes those in India, who fought for stricter rape punishments and the anti-dowry movement.³ As well as feminists and activists in Egypt, who applauded the bottom-up approach and success of their advocacy to pass a sexual harassment law, but are now finding that they are troubled by the law’s penalties and that gender discrimination, norms, and stereotypes remain rampant and affect all other aspects of their lives.

A more effective response to sexual and reproductive rights violations lies in opting for a comprehensive approach, one that does not only rely on the law to remedy and deter future violations.

Such an approach will address the root causes and structural inequalities leading to these violations. It will include accessible and available mechanisms that deliver justice and redress on the survivors’ terms, that answer their needs and ensure community participation, as well as more effectively addressing the inequality, discrimination, gender equality and stereotypes that create an enabling environment for these violations to occur in the first place.

2. Legal philosophers have tried to explain the normativity of law—the fact that the law of a community is, or presents itself as a guide to the conduct of members of a community. See more in Endicott, Timothy, “Law and Language”, *The Stanford Encyclopedia of Philosophy* (Summer 2016 Edition), Edward N. Zalta (ed.), URL: <https://plato.stanford.edu/archives/sum2016/entries/law-language/>.

3. “Preventing and responding to gender-based violence in middle and low income countries”. Sarah Bott, Andrew Morrison, and Mary Ellsberg. World Bank Policy Research Working Paper 3618, June 2005.

4. Partners for Law in Development. “Criminalization and Sexuality”. *Critical Reflections*. From: Roundtable on Exploring the Continuum between Sexuality and Sexual Violence. April 28, 2015.

The report presents the findings of the desktop research led by the global south feminist alliance, RESURJ (Realizing Sexual and Reproductive Justice), as part of the alliance's thought leadership work on the shortcomings and limitations of penal policies in addressing sexual and reproductive rights violations. The aim of the review and this analytical report is to strengthen RESURJ's evidence base on sexual and reproductive justice and to further engage with diverse feminists and groups to reimagine alternatives to criminalized approaches, alternatives that put human rights and justice at the center.

The desktop review identified research, resources, and evidence that explore approaches, responses, mechanisms, and methods that address sexual and reproductive rights (SRR) violations in an alternative manner.

Using examples and evidence from the research and resources, the desktop review report highlights some of the main findings in understanding why the criminal law is so hard to implement, and the limitations of the criminal justice system; the inherent and systematic problems within the criminal justice system such as: discrimination, stigma and accessibility; impunity and the criminal justice infrastructure; including the impacts of imprisonment vs perceived benefits such as rehabilitation and deterrence; survivors' concerns; consent and privacy.

The report explores the ways that violations against sexual and reproductive rights can be prevented and addressed, allowing for a more comprehensive approach that is not heavily weighted towards or solely focused on criminal law. The report looks at preventative measures including addressing the root causes and utilizing an intersectional approach/solution; comprehensive sexuality education; community mobilization and advocacy; as well as response measures undertaken after the violations have taken place, such as restorative justice.

More about RESURJ

RESURJ's approach to sexual and reproductive justice encompasses an understanding of the interlinkages between our bodies, our health, and our human rights, and other ecological, economic and social crises of our times. This intersectional analysis of sexual and reproductive justice also necessitates a questioning of any intervention through its interaction with multiple power systems, including gender, race, ethnicity, and class. In doing so, the contradictions of resorting to the criminal justice system as an intervention to protect rights whilst recognizing its historical use as an instrument of domination and marginalization, to silence dissent and imprison human rights defenders and close public space, become obvious. Once the limitations of criminalization as a solution have been recognized, it becomes difficult to continue advocating nationally, regionally, and globally for states to resort to penal response and criminalization as the most effective, just, and necessary response to SRR violations.

Through this work, RESURJ aims to collaborate with feminists and groups at national, regional and international levels, and in particular around the implementation of the Sustainable Development Goals, to adopt a critical advocacy strategy that promotes a comprehensive approach and advances policies to address sexual and reproductive rights violations. RESURJ is not just seeking policy change, but would also like to see deeper research and analysis from international bodies like the United Nations yielding more comprehensive and adequate recommendations that reach beyond criminalization.

RESURJ's work on this topic, grounded in the work of its members at the national level, began in April 2016 with a meeting of experts convened by the alliance in New York, which resulted in a statement summarizing their starting point and position. Following the convening, RESURJ launched a webinar to gauge the interest of allies, feminists, donors, and other stakeholders to engage on this topic. Links to both of these resources can be found in Annex 3. RESURJ has since engaged in a number of conferences hosted by allies and UN agencies to further explore shortcomings of criminalization when addressing sexual and reproductive rights violations, including co-hosting a side event at the 62nd session of the Commission on the Status of Women (CSW), and presenting at the Challenging Criminalization Globally meeting at Yale University in 2018, as well as the 2nd Challenging Criminalization pre-conference at the International AIDS Conference in 2018. Several RESURJ members have also shared their experiences with criminalization and sexual and reproductive health and rights on the alliance's website. These engagements left RESURJ with a great number of questions being posed, and the need to find alternatives to criminalization based on evidence. At the end of 2018, RESURJ commissioned an independent consultant to conduct a desktop review in an attempt to find some of those answers.

METHODOLOGY

The desktop research aimed to answer two research questions:

- **Question 1:** What are the shortcomings of criminalization in addressing sexual and reproductive rights violations based on research in certain topics/areas?
- **Question 2:** What else, besides criminalization and punitive laws and policies, works? What are some measures that have been undertaken that have yielded results in addressing violations (both preventive and measures undertaken as redress)?

These two questions were answered using evidence from a select number of specific topics: early and child marriage, female genital mutilation (FGM), intimate partner violence and in some cases sexual violence more broadly. These issues were also examined utilizing a cross-cutting, intersectional approach which is key to the alliance's advocacy work; thereby also looking at issues of poverty, equality, education, migration, HIV, climate change and stigma. Female genital mutilation, early and child marriage, and intimate partner violence were chosen as the focus of the desk review, given the increase in criminal laws in past decades on these issues; and the increase in advocacy for implementation of these laws as the priority in reducing incidence, as well as the increase in awareness-raising of these laws by both governments and feminists.

A select number of evidence-based resources – mostly on projects and work in the Global South - were selected according to the following criteria:

1. The extent to which the resources provided evidence-based analysis, prioritizing first-hand accounts/primary research and quantitative or qualitative analysis. Resources that discussed generalities were not preferred. Instead, resources that discussed specific initiatives/projects or advocacy campaigns and initiatives in specific countries were used.
2. The extent to which the resource answered the research questions and provided new arguments or new findings.
3. Regional representation: to the extent possible, resources were selected to reflect some regional diversity so they're not all from the same region on the same topic.

A total of 54 resources were identified and reviewed. These were mostly from journal articles on health and law, as well as reports from other organizations. What follows is a summary of the evidence gathered from these resources. Additionally, eight experts from the different regions were interviewed to provide their analysis and reflections on the research questions and findings of the desktop review. Their names can be found in Annex 2.

Research Limitations

The research presented below is not exhaustive, and many more resources can be identified and added to the list. The purpose of the research is not to present and showcase all the resources on the identified subject matter, but instead, it is meant to provide only some indicative examples. The list of resources identified is further limited by the need to ensure that there is some regional diversity (that the resources cover all of the regions) and that there is no focus on one particular region. Furthermore, while the research was meant to focus on South-based projects and evidence, the reality is that due to language restrictions and the bias of existing research, more evidence and resources are available and accessible in English and from the North. This exercise is also expected to serve as the foundation for a more in-depth mapping and potential research and analysis at the national level on short and long-term impacts on the people involved and wider communities, feasibility, and any indications of political will or commitment shifting towards alternative approaches. Finally, this report is not meant to provide an analysis of any of the issues identified, it is merely presenting some of the research on these topics. More analysis is needed and this report could help in directing the analysis.

There are also some further research gaps and interlinkages that can be identified that this report did not address. For example, the resources reviewed did not adequately address the interlinkages with privatization and array of inequalities it leads to, as well as the complexities and problems associated with the prison industry, including problems such as the accessibility of medicines and healthcare inside of prisons. More research also needs to be identified that examines the impact of criminalization on LGBTIQ and gender non-conforming individuals.

Finally, while we've presented a number resources and initiatives, we reiterate that we are not necessarily supporting any one project or initiative and that some projects while presenting success in reducing violence can have other detrimental and wider impacts on the communities, women, adolescents, trans and gender non-conforming people.

DEFINITIONS

For the purposes of this paper, below are RESURJ's understandings of the terms we used throughout the research.

Sexual and Reproductive Rights

Sexual and reproductive rights (SRR) entitle individuals to make decisions about their own bodies free of coercion and discrimination. To do so, they must have access to accurate information and comprehensive health services. Sexual and Reproductive Rights (SRR) are grounded in human rights, including the right to life, health, education, privacy, freedom from torture and cruel, inhuman or degrading treatment or punishment and to equality and non-discrimination.⁴

Sexual and Reproductive Rights Violations

Violations of sexual and reproductive rights include all types of gender-based violence, "denial of access to services that only women require, or poor quality services, subjecting women's access to services to third party authorization," and violations to bodily autonomy, such as the "performance of procedures related to women's reproductive and sexual health without the woman's consent, including forced sterilization, forced virginity examinations, and forced abortion. Women's sexual and reproductive health and rights are also at risk when they are subjected to female genital mutilation (FGM) and early marriage."⁵

Female Genital Mutilation

Female genital mutilation (FGM) is any procedure that involves the partial or total removal of the external female genitalia for non-medical reasons. FGM is not only a sexual and reproductive rights violation, it is also considered a form of discrimination, a violation of the rights of children (as it is almost always carried out on the girl child and adolescent girls) and violates women and girls' "rights to health, security and physical integrity, the right to be free from torture and cruel, inhuman or degrading treatment, and the right to life when the procedure results in death."⁶

Child, Early and Forced Marriage

Child marriage is most frequently defined by the UN as a marriage conducted between two parties one of whom is under the age of 18. The UN further considers early and child marriages as "forced" as the child is often unable to give free and informed consent to the marriage, however, "forced" is also referred to any marriage or union without the free and expressed consent of the parties involved. For the purposes of this report and according to the research identified, the term that is more commonly used is early and child marriage. However, we understand that early marriage and early union occurs frequently and with the consent of the parties involved, in particular in some regions such as Latin America.

4. More information can be found at: <https://www.ohchr.org/EN/Issues/Women/WRGS/Pages/HealthRights.aspx>

5. More information can be found at: <https://www.ohchr.org/EN/Issues/Women/WRGS/Pages/HealthRights.aspx>

6. More information can be found at: <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>

Sexual and Gender Based Violence

Gender based violence (GBV) includes any harmful act conducted against an individual, including transgender and gender non-conforming individuals, based on their gender or their perceived gender. It includes sexual violence, domestic and intimate partner violence, early, forced, and child marriage as well as harmful traditional practices. Sexual violence is a form of GBV and includes “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. Sexual violence takes multiple forms and includes rape, sexual abuse, forced pregnancy, forced sterilization, forced abortion, forced prostitution, trafficking, sexual enslavement, forced circumcision, castration, and forced nudity.”

Intimate Partner Violence

Intimate partner violence is any physical, sexual or emotional abuse and controlling behavior by an “intimate” partner. The WHO defines IPV as: ‘any behaviour within an intimate relationship that causes physical, psychological or sexual harm to those in the relationship such as: physical violence including slapping, hitting, kicking and beating; sexual violence, including forced sexual intercourse and other forms of sexual coercion; emotional (psychological) abuse such as insults, belittling, constant humiliation, intimidation (e.g. destroying things), threats of harm, threats to take away children; and/or controlling behaviours including isolating a person from family and friends; monitoring their movements; and restricting access to financial resources, employment, education or medical care’.

Restorative Justice

Restorative justice is a set of principles that guide and seek to address violations and crimes while engaging both the perpetrator as well as the person who has been violated, and often times the community to reach a resolution that is satisfying to all.

UNDERSTANDING THE SHORTCOMINGS OF THE CRIMINAL JUSTICE SYSTEM

Why Not Just the Law: Inherent and systemic problems within the criminal justice system

There are many reasons why an approach that relies solely on criminal law and sanctions fails to deliver meaningful justice for girls and women in all their diversity and their communities at large. Some of these reasons are inherent to the criminal justice system, while others are related more to the nature and timing of the laws being passed. This section will focus primarily on highlighting the problems within the criminal justice system that have in turn led to rights violations instead of rights protection, based on research and interviews.

Discrimination, stigma, and accessibility:

Many social ills are replicated in the criminal justice system, which means that the mechanism established to deliver justice for women and girls is, in and of itself, more likely to reproduce injustices. All of the experts interviewed argued that the process by which a law is promulgated, who decides what should be made into law, who should be convicted and according to what terms, is a system that is inherently led by privileged men. “The CJ system is a patriarchal, class-based system applying its biased understanding of what is right and wrong,” concludes Madhu Mehra, Executive Director of Partners for Law in Development.⁷ “Convictions reconstruct patriarchal violations,” she adds, as well as racist and xenophobic attitudes.

Laws that are promulgated against HIV transmission, for example, have been found to be greatly problematic. Not only do they reinforce the stigma associated with people living with HIV (PLHIV), but also they often lead to unjust imprisonments in a setting where there are no harm reduction measures in place, placing the prison population at risk of HIV transmission and PLHIV at the risk of re-infection. This is often the result when the criminal justice system is tasked with handling a public health issue such as HIV. It pursues individuals because that is what the criminal justice system is meant to do instead of working towards eliminating the infection, which it is unable to do.⁸ “Stigma clouds a lot of rationality, [and as a result], there are so many inappropriate convictions,” concludes Edwin Bernard, Global Coordinator at HIV Justice Network.

Women* from the margins are unable to access the criminal justice system, even though they are the ones who attempt to access it the most,⁹ says Mehra, based on her work. Empirical evidence from the desktop review supports this, suggesting that women face socio-economic as well as cultural barriers in accessing the criminal justice system. One such economic barrier, for example, is the cost of hiring private lawyers in countries of the Global South, where accessing efficient public defenders is very difficult.¹⁰ With regards to social barriers, according to a study conducted in Zambia, women said they did not feel they were able to access the criminal justice system because they were afraid they would bring shame to their families if they reported the violations, or because they didn’t feel their claims were worthy enough to be reported.¹¹

7. Interview with Madhu Mehra, February 19 2019 over Zoom. A recording of the interview is available with RESURJ.

8. Interview with Edwin Bernard, February 18 2019 over Zoom. A recording of the interview is available with RESURJ.

9. Interview with Madhu Mehra, February 19 2019 over Zoom. A recording of the interview is available with RESURJ.

10. Interview with Edwin Bernard, February 18 2019 over Zoom. A recording of the interview is available with RESURJ.

11. Sarah Bott, Andrew Morrison, and Mary Ellsberg. “Preventing and responding to gender-based violence in middle and low income countries.” World Bank Policy Research Working Paper 3618, June 2005.

In Egypt, in particular before the law on sexual harassment was passed in 2014, women often felt that they were unable to report sexual violations to the police lest the police would mock them or worse, harass them. Similarly, in Pakistan women are told to go home by the police when they attempt to report the violations, and worse still advised to reconcile with their partners.¹² Immigrants in European countries often find law enforcement to be antagonistic, and feel that the law only drives them further towards a protectionist view of their culture and traditions.¹³

Despite these deep-rooted structural problems, many of the experts argue that states, donors and even feminists traditionally keep pushing for more laws, and an increase in penalties. In Pakistan, due to social pressure, penalties were strengthened for a number of sexual violations, with the result being that judges often find it difficult to convict when the sentence is the death penalty. Similarly in Egypt, the same women who argued for the sexual harassment law, now find themselves reluctant to report to the police as they don't want these men to be imprisoned because it's too cruel a punishment and it will not necessarily change their attitudes and behaviors towards women.

Impunity and the criminal justice infrastructure:

There are many problems with enforcement of the law too. Impunity is a key characteristic of many of the CJ systems in the Global South, partially due to who is more influential and who can "afford" getting away with breaking the law. Therefore many perpetrators are not convicted.¹⁴ This is true in Mexico, where Estefania Barba from the Centro de Investigación y Docencia Económicas (CIDE)/Intersecta, argues that no matter what law reforms are introduced, the percentage of cases that are tried is low, and so is the number of convictions.¹⁵ Furthermore, when the law being imposed is not a popular one, all stakeholders will allow their own convictions and beliefs to cloud their judgment, ranging from law enforcement and prosecutors who fail to investigate and prosecute, to judges and juries who fail to convict.¹⁶ Even health professionals can fail to offer necessary medical assistance to survivors or to the prosecutors.¹⁷

12. Interview with Sheena Hadi, March 5 2019 over BOT.

13. Marge Berer. "The history and role of the criminal law in anti-FGM campaigns: Is the criminal law what is needed, at least in countries like Great Britain?". *Reproductive Health Matters*, 23:46, 145-157, DOI: 10.1016/j.rhm.2015.10.001.

14. Santiago Boira, Lucia Tomas-Aragones and Nury Rivera. "Intimate Partner Violence and Femicide in Ecuador". *Qualitative Sociology Review*. Volume XIII Issue 3, 2017.

15. Interview with Estefania Barba, February 20 2019 over Zoom. A recording of the interview is available with RESURJ.

16. Ngianga-Bakwin Kandala, Paul N. Komba. "Geographic Variation of Female Genital Mutilation and Legal Enforcement in Sub-Saharan Africa: A Case Study of Senegal". *The American Society of Tropical Medicine and Hygiene*, Volume 92, Issue 4, Apr 2015, p. 838 – 847.

17. Sarah Bott, Andrew Morrison, and Mary Ellsberg. "Preventing and responding to gender-based violence in middle and low income countries." *World Bank Policy Research Working Paper 3618*, June 2005.

Even when there are best intentions in passing or reforming laws, often governments will not ensure that there are enough resources to implement the law. In Pakistan for example, Sheena Hadi, Director of Aahung, says that because of a lack of resources, generating evidence to convict rapists is difficult.¹⁸ When it comes to the law on early and child marriage, many of the girls had no birth registration, to begin with, thus deeming them nonexistent to the law. Furthermore, while the law penalizes a man for an early marriage act, it does not make the marriage void, so the young girl is still married to a husband in jail.

In Brazil, a landmark law passed in 2006 on violence against women (LMP) has been found to be inefficient largely due to a lack of resources for proper implementation and an uneven distribution of resources across the five regions of the country.¹⁹ Even further back, when the rape law was introduced in Brazil and included in the Heinous Crimes Law, a weak infrastructure and a prominent judicial culture resistant to change, led to fewer successful prosecutions.²⁰

Impacts of imprisonment vs. perceived benefits (rehabilitation, deterrence):

Convictions and imprisonment sentences are also problematic because of the impacts of imprisonment upon the individuals convicted, their families and communities. Instead of investing in social and health services, education, information, and awareness-raising to address the root causes behind these violations, the state spends money on building prisons and maintaining them. When prisons are privatized, as is largely the case in the North, the prison industry stands to profit a great deal from the push towards criminalization.²¹

As explained thoroughly by one of the resources reviewed: "The consequences of mass criminalization are devastating on an individual level, contributing to physical and emotional trauma, lost time from school and work, exorbitant fees and fines, loss of access to education, employment, housing, health care, social benefits, shelters, public spaces, and voting rights, removal of children, deportation of family members, surveillance, and loss of liberty. They are also devastating on a systemic level; mass criminalization diverts a significant proportion of our collective resources to systems of policing, control and punishment. This drain on city, state and federal budgets prevents us from addressing the economic and social drivers of criminalized behaviors by investing resources into building safe and thriving communities."²²

18. Interview with Sheena Hadi, March 5 2019 over BOT.

19. Cecilia M. B. Sardenberg. "Ten Years of Maria Da Penha Law: Advancements and Shortcomings in Confronting Gender Based Violence Against Women in Brazil". *Revista Feminismos*. Vol.4, N.1, Jan - Abr. 2016.

20. The Judicialization of Politics in Latin America. Edited by Rachel Sieder, Une Schjolden, and Alan Angell. Chapter 9 Private Conflicts, Public Powers: Domestic Violence in the Courts in Latin America Fiona Macaulay, p211. 2005.

21. For more information, see: <http://resurj.org/post/profit-feeding-profit-childrens-homes-prisons-uk>.

22. "The Crisis of Criminalization." Barnard Center for Research on Women, March 2017.

This is particularly problematic when, as the experts explain, sexual and reproductive violations are a result of deep-rooted structural problems. The criminal justice system does not resolve structural problems. The experts interviewed cast doubt on the effectiveness of rehabilitation programs in prisons. Prisons “do the opposite of rehabilitation,” says Edwin Bernard.²³

Just as they do not rehabilitate, prisons and criminal laws also do not deter sanctionable conduct. The link between the reduction of sexual and reproductive violations and the threat of criminal sanctions is not well established. In cases where there have been reductions in such violations, they are also associated with several other factors such as change of mindsets and attitudes, and education and awareness.²⁴

Estefania Barba agrees, explaining that many women refrain from reporting intimate partner violence at times because they do not want their partners to end up in prison. This is partly due to the economic burden placed on women when their partners no longer provide for their families, but also the burden of providing for these men while they are in prison; these are some unacknowledged costs.²⁵ It is also because they are their partners, fathers of their children and simply put, “prisons are bad.” Barba’s findings are echoed by other research consulted for the desktop review. “Criminal justice is typically focused on punishing perpetrators rather than restoring the safety and wellbeing of women. Criminal sanctions are not necessarily appropriate for women who want physical or sexual violence to end, but who do not want to break up their family. In some settings, women and children have no means of economic survival if a violent partner or sexually abusive parent receives jail time.”²⁶ This is also true in early and child marriage and FGM, where the survivor does not wish to see her family members prosecuted.

Victim concerns

Another limitation of the law is that it seeks to provide legal redress and does not offer sufficient protection for the survivors of these violations. If the law does not deter, then there will always be a risk for the violation to continue.

Furthermore, research and analysis provided by the experts indicate the criminal justice system is not a system that places the victims at the center or allows them to lead the process and deliver the justice they feel they need. “In the criminal justice system, victims have no voice, they are no better than a witness.

23. Interview with Edwin Bernard, February 18 2019 over Zoom. A recording of the interview is available with RESURJ.

24. Sarah Bott, Andrew Morrison, and Mary Ellsberg. “Preventing and responding to gender-based violence in middle and low income countries.” World Bank Policy Research Working Paper 3618, June 2005.

25. Interview with Estefania Barba, February 20 2019 over Zoom. A recording of the interview is available with RESURJ.

26. Sarah Bott, Andrew Morrison, and Mary Ellsberg. “Preventing and responding to gender-based violence in middle and low income countries.” World Bank Policy Research Working Paper 3618, June 2005.

The majority of the victims don't get justice. By the time it reaches the end of the trial, that particular type of justice loses meaning for them. Criminal law doesn't understand this," argues Swagata Raha, an independent consultant working on child rights issues in India.²⁷

Sara Mohamed,^{*28} an independent researcher on sexual and reproductive rights in Egypt concurs, adding from the work she's done on sexual harassment in Egypt that even though the law was deemed a huge victory and success, women who are harassed want the men to stop doing so, and to change the way they view women. But they don't want to send them to prison. Mohamed tells the story of one woman who was harassed on the street and when she threatened to report him to the police, he explained that he was only harassing her because he thought she was a Syrian refugee. Her solution: she asked the man to donate a sum of money to help Syrian refugees in return for her backing down from her police claim.²⁹

Sexual violence, like rape, for example, are some of the least reported and convicted violations. Women who do report and pursue the process often find that they are "retraumatized" with the burden of proof falling on their shoulders. They are shamed, and degraded, their personal and sexual lives and histories are put on trial, questioned and examined, and they feel that they are not in control of the proceedings and are not kept informed. This is true in countries like Germany where there is an extensive survivor support system in place, and also in South Africa which has special prosecution units and courts for sexual assault.³⁰

Consent and privacy

One additional matter that was highlighted by the interviews and supported by research was the privacy and consent of the women and girls upon whom these laws are being imposed. While all these laws were passed supposedly in the name of protecting women's and girls' rights, it is actually this protectionist view that the experts interviewed found to be problematic. For example, laws that are passed to protect women from HIV infection by their husbands end up incriminating many of these women,³¹ whether it's for simply being HIV positive, being accused of and blamed for contracting it, for 'immoral behavior', or accusations around vertical transmission.

27. Interview with Swagata Raha, February 5 2019 over Zoom. A recording of the interview is available with RESURJ.

28. * Sara Mohamed is a pseudonym used to protect the researcher's identity as she wished not to disclose her name.

29. Interview with Sara, March 27, 2019 over the phone.

30. Mary Koss and Mary Achilles. "Restorative Justice Responses to Sexual Assault." Applied Research Forum. February 2008.

31. Interview with Edwin Bernard, February 18 2019 over Zoom. A recording of the interview is available with RESURJ.

Another case in point, are laws around early and child marriage, where the question of consent comes into play. The state gives itself the right to use a somewhat arbitrary number to decide when a girl can consent to sex; so she can say yes when she is 18 but not if she is 17 and a half, explains Sheena Hadi. “It’s random and non-sensical,” she argues. “It’s not the age that creates the vulnerability, it’s the social and economic factors and the way patriarchal societies are set up,” she concludes.³² Applying such laws denies the sexual autonomy of adolescents in line with their ‘evolving capacities’ and can lead to the unjust criminalization of adolescents engaging in consensual sex.³³

Furthermore, when stigma is associated with young people having sex outside of marriage, it can contribute to early and child marriage: whether it’s because young people feel it’s the only way they can have sexual relations, or because families want to “protect” their daughters.³⁴ Attempts to raise the legal age of marriage as a way of addressing child marriage will often lead to and be confused with raising the age of consent, which needs to answer to the evolving capacities of adolescents and respect their rights. “Countries must ensure that children and adolescents are protected from sexual abuse, coercion, and exploitation, whether it occurs within or outside of marriage... At the same time, however, it is important to recognize the evolving capacities of adolescents and appreciate why high-age restrictions for sexual consent can be harmful.”³⁵

Margaret Greene, President of GreeneWorks, agrees, arguing that these kinds of laws tend to separate families, wherever they are applied, including when they are used with migrant communities in the Global North. At the same time, these types of measures place girls in positions of vulnerability, with no access to health services and information, and no support for adolescent pregnancy. Where informal marriages or unions are common, as they are in Latin America and the Caribbean, laws criminalizing early marriage simply reinforce the disadvantage of girls in informal unions.³⁶

Sara Mohamed also argues that laws under authoritarian regimes are often abused and these same regimes will also use the law to restrict individuals’ privacy rights. You are essentially allowing “the state into our private lives,” she concludes. Suddenly, the state has gained the authority to decide and regulate sexual relations, whether it’s out of marriage, people of the same sex, etc. It will attempt to impose its own moral code.³⁷

32. Interview with Sheena Hadi, March 5 2019 over BOT.

33. Santelli, John & Spindler, Esther & Moore, Erin & McGovern, Terry. (2018). “Criminalising sexuality or preventing child marriage: legal interventions and girls’ empowerment”. *The Lancet Child & Adolescent Health*. 10.1016/S2352-4642(18)30370-5.

34. Suzanne Petroni, Madhumita Das, Susan M Sawyer. “Protection versus rights: age of marriage versus age of sexual consent”. *Lancet Child Adolescent Health* 2018 Published Online December 5, 2018.

35. Suzanne Petroni, Madhumita Das, Susan M Sawyer. “Protection versus rights: age of marriage versus age of sexual consent”. *Lancet Child Adolescent Health* 2018 Published Online December 5, 2018.

36. Interview with Margaret Greene, March 1 2019 over Zoom. A recording of the interview is available with RESURJ.

37. Interview with Sara, March 27, 2019 over the phone.

Why is the criminal law difficult to implement?

In this section, we will address the reasons outlined by the research and interviews for why particular laws around FGM, early and child marriage and intimate partner violence are difficult to implement. The reasons revolve around the peculiarities of the law, how it is being imposed, upon whom it is being imposed and the timing of the law's adoption.

Enforcing a law without adequate advocacy and awareness-raising:

Most of the cases reviewed and examined found that laws were being passed with a top-down approach, where there was not enough advocacy prior to the law being passed to raise awareness around the violation being criminalized. This is the case with the FGM law in Egypt for example, but also both the early and child marriage law and the FGM law in The Gambia. According to Musu Bakoto Sawo from Think Young Women, the two laws were imposed by the President.³⁸ The result in both Egypt and Gambia is that people feel the law is being pushed down their throats, and the people entrusted with enforcing the law are reluctant to do so.

This is particularly true when there are attempts to enforce a law amongst a migrant community, which is more likely to be marginalized. A case in point is FGM laws applied in the Global North.³⁹ In particular, where the practice had a stronghold in the country of origin, the existence of a law criminalizing the practice in the countries where these families were migrating to, was less of a deterrent to them.⁴⁰ Punishing immigrant parents further alienates them and makes them more likely to hold on to their cultures. It is therefore essential that we examine the interlinkage here with immigrants' rights.

38. Interview with Musu Bakoto Sawo, March 29, 2019. A recording of the interview is available with RESURJ.

39. Marge Berer. "The history and role of the criminal law in anti-FGM campaigns: Is the criminal law what is needed, at least in countries like Great Britain?". *Reproductive Health Matters*, 23:46, 145-157, DOI: 10.1016/j.rhm.2015.10.001.

40. Patrizia Farina, Els Leye, Livia Ortensi, Claudia Pecorella. "Female Genital Mutilation/Cutting: sharing data and experiences to accelerate eradication and improve care". *Reproductive Health*. 2017; 14(Suppl 2): 115. Published online 2017 Sep 15.

Lack of knowledge/awareness

Similarly, research indicates that among communities there is a clear lack of knowledge/awareness about the law, and/or the harmful effects of the violation that is being committed. This is one of the reasons community members refrain from complying with the law. Due to the marginalization faced by women and migrants, for example, the communities most affected by the law are usually the ones furthest away from a full understanding of it. Furthermore, in the case of FGM in the Global North, many of those trying to implement the law are unaware of women's lack of knowledge about the existence of the law and its terms. Moreover, stakeholders also suffered from a lack of education about FGM. The law, in this case, does not seem to respond to the communities' needs.⁴¹ "The bottom line is simple: elimination of FGM will require more than the legislation that criminalizes it.

"The distinctive culture that sustains this practice in its everyday interactions between inhabitants has to adapt to an evolving world where girls and women can be independent economic, political, and social actors. In particular, we need to look beyond existing cultural practices, to encourage available alternative strategies, and to critically focus on important localized variables that sustain FGM, such as localized forms of patriarchy, early and child marriage, poverty, and lack of education. Then one by one we need to eliminate them through the increased engagement of men and boys in ending FGM and empowering girls and women."⁴²

41. Charlotte Rachael. "The Impact of Criminalization of Female Genital Mutilation in England". Proudman King's College May 2017 This dissertation is submitted for the degree of Doctor of Philosophy.

42. Bunei E.K., Rono J.K. (2018) "A Critical Understanding of Resistance to Criminalization of Female Genital Mutilation in Kenya | SpringerLink". A Critical Understanding of Resistance to Criminalization of Female Genital Mutilation in Kenya. In: Carrington K., Hogg R., Scott J., Sozzo M.(eds) The Palgrave Handbook of Criminology and the Global South. Palgrave Macmillan, Cham. First Online 13 January 2018

WHAT ELSE BESIDES THE CRIMINAL LAW:

A comprehensive approach to
addressing sexual and reproductive
rights violations

This section answers the second research question, addressing initiatives that have either been more successful in addressing the root causes leading to violations of sexual and reproductive rights, or addressing the violations through an alternative mechanism or means; one that is more in line with the survivor's narrative, lived realities and desires. In the first part of this section, the research will draw out what is entailed in a more comprehensive approach in preventing these violations in the first place; while the second section looks at alternatives to the criminal justice system as a mechanism to deliver justice for women and girls.

Preventive measures

One thing that the research and a majority of the interviewees agreed with is that to really prevent sexual and reproductive rights violations, the root causes that lead to individuals' behaviors and attitudes in leading to violations must be addressed first. A big part of the solution that is currently utilized to tackle sexual and reproductive rights violations takes a siloed view and hence a siloed and vertical approach to addressing them. Gender identities and inequalities, especially economic, social and environmental injustice lead many down paths of misunderstandings, mis-communications, and mis-beliefs which in turn lead to violations.

One cannot for example effectively address FGM or early and child marriage without first addressing gender stereotypes and inequality that take away women's and girls' decision-making and ownership over their bodies. Media, education and the health sector can reinforce or address and end the stereotypes and lack of information that lead to and perpetuate discrimination and inequality, in particular when it comes to bodily autonomy. In addition, economic inequalities as well as climate change (by driving already impoverished communities further into economic hardships)⁴³ lead impoverished and marginalized communities to take girls out of schools or to marry them at an early age because they cannot afford schooling or to seek what they believe is a better future for the girls and their families. Women are more likely to be affected by climate crisis than other members of the communities, being the largest percentage of the poor population but also due to many of the existing inequalities they face which climate change "exacerbates" (such as their "lack of access to resources like land, credit, and training; limited participation in decision-making processes; more dependence on natural resources, and greater caring responsibilities)."⁴⁴

42. Margaret Alston, Kerri Whittenbury, Alex Haynes and Naomi Godden. "Are climate challenges reinforcing child and forced marriage and dowry as adaptation strategies in the context of Bangladesh?". Women's Studies International Forum. November 2014.

43. Ana Agostino. "Gender equality, climate change and education for sustainability". Newsletter for Beyond Access: Gender, Education and Development. Issue 24, February 2010.

In addition, failing to comprehensively attend to sexual and reproductive rights violations and inequalities lead to an array of other violations. For example, early and child marriage often leads to and is interlinked with early pregnancy, school drop-outs, HIV transmission, and diminished education and economic opportunities.

Furthermore, members of marginalized communities who are imprisoned often find that they become trapped within the criminal justice system. Criminalizing and imprisoning people living with HIV, for example, will place them in an environment that is further stigmatizing and that creates conditions that increase chances of HIV transmission; the latter of which the law was purportedly seeking to reduce. Similarly, adolescents often find that they return to prisons as adults, therefore even the parallel legal system that is often created for them, fails to protect their rights and instead of rehabilitation, they fail to reintegrate with the community.⁴⁵

The failure to take appropriate measures to prevent human rights violations means that sexual and reproductive justice is not only part and parcel of economic, environmental and social justice, but also that establishing economic development of people and communities can only succeed if one were to prioritize gender equality, and women and girls' rights.⁴⁶ Gender inequality cannot be tackled without also addressing systemic challenges including poverty, class, racism, education, and migration amongst others. Respect for women and girls' rights will not come by with the force of law alone; instead, an integrated comprehensive approach is needed. One that will seek to address the lack of awareness and information around women's and girls' rights, gender, and other stereotypes, as well as inequality, marginalization and poverty issues which often compound the oppression of women and girls.

The research surveyed a number of small scale projects that have been successful in addressing the structural problems leading to sexual right violations, addressing stigma, gender, discrimination, inequality in general and a lack of awareness and education. The projects surveyed explored education initiatives, with the communities involved and with health professionals, awareness-raising initiatives, including for law enforcement and the judiciary. A select number of these projects will be briefly described below. These will be organized and grouped according to the type of intervention. A full list of the resources identified can be found in Annex 1. ***The research here and in the annex is not exhaustive and is not intended to present a model solution but to show that alternatives to criminalization can and do exist and that these approaches require more funding and research.***

45. "The Crisis of Criminalization." Barnard Center for Research on Women, March 2017.

46. Mary Hallward-Driemeier and Tazeen Hasan. "Empowering Women: Legal Rights and Economic Opportunities in Africa." The World Bank Washington, DC. 2011.

Addressing root causes and utilizing an intersectional approach

The projects surveyed below all aimed to tackle gender norms and gender inequality, by raising awareness among women, girls, and their communities at large. Working directly with these girls, women and their communities is key and is a valuable lesson. One other important conclusion reached by a number of these projects below is that economic and environmental injustice will often hinder all efforts to change mindsets and attitudes of individuals and communities, and therefore it is essential to invest in addressing such injustices.

Program name	Program description	Issue being addressed	Result and Conclusion
Gender-Equitable Men (GEM) - Program H in Latin America	Program H is an initiative developed in Brazil and Mexico using young voices within the communities who have varying ideas around gender and equality to lead discussion groups, educational sessions, and community campaigns, the design of the intervention and methodology, as well as the evaluation. Program H is also being replicated and tailored to other parts of the world, but its emphasis on change being community-led and within the community, but also backed up by a strong policy framework is essential in recommending a comprehensive approach to resolve these deep-rooted problems.	Gender norms/ equality; cross-sectional approaches	“The work of Program H suggests that attitude and behavior change are possible to achieve, but require work at the individual, community, and policy levels. ” ⁴⁷ Most interventions are short-term and changes in attitudes are difficult to assess, but the types of interventions designed here suggest that this project could work in the long term.
The Ishraq Program	Four NGOs operating in Egypt - Caritas, CEDPA (Centre for Development and Population Activities), the Population Council, and Save the Children worked with two government entities to create a program targeting 13–15-year-old girls who did not attend school in four rural villages of Al Minya governorate in Upper Egypt, one of Egypt’s poorest regions. Ishraq sought to transform girls’ lives by changing gender norms and community perceptions about girls’ roles in society while bringing them safely and confidently into the public sphere.	Gender norms/ equality	The program claims to have increased the awareness and literacy of the girls engaged in the program on reproductive rights and gender norms. Its claims to success are also attributed to the fact that it engaged and was led by other girls and women from the same community and that it changed perceptions of the officials involved.

47. Gary Barker, Marcos Nascimento, Márcio Segundo, Julie Pulerwitz. Ruxton, S. (ed). “How do we know if men have changed? Promoting and measuring attitude change with young men: lessons from Program H in Latin America Gender Equality and Men: Learning from Practice”. Oxfam GB, 147-161, 2005

Program name	Program description	Issue being addressed	Result and Conclusion
The Ishraq Program	Ishraq targeted these 277 girls as well as other stakeholders, boys, parents and community leaders. The intervention included a combination of literacy classes, a life skills program, and sports, and “aimed to develop skills, increase self-confidence, build citizenship and leadership abilities, and raise girls’ expectations for the future”. The girls met four times a week in groups of 25 for almost three years and were trained by “promoters”, female secondary school graduates who were trained for this purpose. ⁴⁸	Gender norms/ equality	
Berhane Hewan	A two-year pilot project conducted in 2004–2006 that aimed to reduce the prevalence of early and child marriage in rural Ethiopia, through a combination of group formation, support for girls to remain in school and community awareness. The intervention had three components: support groups led by a female mentor, support to their families to keep their girls in school (including financial support) and livelihood training for these girls. The program also engaged the community at large on “conversations” on such issues as early and child marriage.	Early and Child Marriage; cross-sectional approaches and economic interlinkages	The intervention was successful in delaying the age of marriage and increasing contraceptive use, as well as staying in school. “Berhane Hewan demonstrates that the incentives and traditions that support the earliest marriages can be changed in a relatively short period by altering local opportunity structures and addressing motivations for arranging marriages for young girls. ” ⁴⁹

Program name	Program description	Issue being addressed	Result and Conclusion
Designing a more strategic intervention for FGM	This is an initiative led by the German Federal Ministry for Economic Cooperation and Development, GTZ, supporting government efforts in Ethiopia, Benin, Burkina Faso, Guinea, Kenya, Mali, Mauritania, and Senegal to end FGM. This program includes promotion of awareness-raising and behavior change, dialogue about traditional values, the empowerment of girls and women, information and education about human rights, and hygiene, the promotion of education, cooperation with men and religious leaders and the upgrading of health workers.	Female genital mutilation; comprehensive and cross sectional approaches	This comprehensive approach has had some success in improving FGM n rates. ⁵⁰
The Adolescents' Girls Adventure in Bangladesh	A project from Bangladesh that includes life training skills and education, including questioning gender roles, health, legal rights and other rights targeting young women with the aim of trying to delay marriage.	Early and Child Marriage; economic interlinkages	While the project was successful in enhancing the girls' overall well-being and delaying marriage, the results continued to be compromised due to economic pressures placed on the families to marry their girls for the sake of the dowry. ⁵¹

48. Martha Brady, Ragui Assaad, Barbara Ibrahim, Abeer Salem, Rania Salem, Nadia Zibani. "Providing new opportunities to adolescent girls in socially conservative settings: The Ishraq program in rural Upper Egypt". The Population Council. 2017.

49. Annabel S. Erulkar and Eunice Muthengi. "Evaluation of Berhane Hewan: A Program to Delay Child Marriage in Rural Ethiopia | Guttmacher Institute." International Perspectives on Sexual and Reproductive Health. A journal of peer-reviewed research. Volume 35, Issue 1. March 2009.

50. Finke, Emanuela. "Genital Mutilation as an Expression of Power Structures: Ending FGM through Education, Empowerment of Women and Removal of Taboos on JSTOR." African Journal of Reproductive Health / La Revue Africaine De La Santé Reproductive, vol. 10, no. 2, 2006, pp. 13–17. JSTOR.

51. Sajeda Amin. "Empowering adolescent girls in rural Bangladesh: Kishori Abhijan". Promoting healthy, safe, and productive transitions to adulthood. Brief no. 13 Updated May 2011.

Program name	Program description	Issue being addressed	Result and Conclusion
Social infrastructure and violence	Local authorities in Medellín, Colombia decided in 2003 to build a public transit system linking the urban city center to isolated, low-income neighborhoods.	IPV; Economic	A survey was undertaken in 2008 after the project was completed, and compared with the Public Prosecution's Office records and found that there was a decline in cases of sexual violence, in comparison to other neighborhoods with no such access. Although reducing violence was not one of the targets of this intervention, rural and urban development and investing in disadvantaged and isolated communities can ultimately lead to a reduction of sexual violence.
What works to prevent intimate partner violence	This review is commissioned by DFID to examine what works to prevent violence rather than focus on how to respond, examining research and initiatives that look at the "underlying determinants of partner violence."	IPV;	One of the determinants underlying IPV was found to be gender norms and beliefs, and the review finds that through examining projects on FGM, beliefs that are culturally entrenched can be changed but over time.

Program name	Program description	Issue being addressed	Result and Conclusion
<p>What works to prevent intimate partner violence</p>			<p>The review also finds that evidence from other programs working with men to change gender norms can be promising. On women’s economic empowerment, the evidence suggests that women who seek jobs can be placed at further risk if they are breaking gender norms, therefore it is imperative that that be accompanied by an enabling environment. ⁵³</p>
<p>What are the strategies and approaches most effective in preventing and responding to GBV?</p>	<p>This paper is a review of projects and initiatives that work to combat gender-based violence, in particular, the ones that were more successful. The areas covered by this review are: laws and policies, institutional reforms, community mobilization, and individual behavior change strategies, as well as lessons learned from all of these.</p>	<p>Gender inequality; intersectional approaches and interlinkages</p>	<p>The research supports an interlinked approach to combating GBV, finding that economic empowerment and social services for women and girls are effective means to combat GBV. Some of the factors that affect women’s vulnerability to GBV are poverty, the lack of safe public spaces and the inhibitions</p>

Program name	Program description	Issue being addressed	Result and Conclusion
<p>What are the strategies and approaches most effective in preventing and responding to GBV?</p>			<p>they place on women’s rights to work and travel, as well as social and gender norms including concepts such as honor. One other interlinkage aspect that needs to be highlighted is a look at investing in infrastructure – such as transportation, water, and sanitation as a means of combating GBV. Similarly, an examination of women’s ability to exercise her legal rights (to own property, to inherit, to own land etc) and its link to enabling women and girls is critical in addressing sexual violations. One interesting finding is that there is little reliable information on the effectiveness of these initiatives, and more research should be dedicated to that purpose.⁵⁴</p>

52. Magdalena Cerda, Jeffrey D. Morenoff, Ben B. Hansen, Kimberly J. Tessari Hicks, Luis F. Duque, Alexandra Restrepo, and Ana V. Diez-Roux. "Reducing Violence by Transforming Neighborhoods: A Natural Experiment in Medellín, Colombia". American Journal of Epidemiology, Volume 175, Issue 10, 15 May 2012, Pages 1045–1053.
 53. Lori "L. Heise" Chief Executive. "What Works to Prevent Partner Violence." STRIVE Research Consortium. December 2011.
 54. Sarah Bott, Andrew Morrison, and Mary Ellsberg. "Preventing and responding to gender-based violence in middle and low income countries." World Bank Policy Research Working Paper 3618, June 2005.

Comprehensive Sexuality Education

Comprehensive sexuality education is an early intervention that can be introduced with relatively minimal costs but which can tackle and change attitudes in regards to gender norms and breakdown gender stereotypes at a very early stage, thereby having a greater result in the long term. Below are some small scale interventions that have had an effect on changing conceptions related to dating violence in schools.

Program name	Program description	Issue being addressed	Result and Conclusion
A mandatory CSE program alongside youth-friendly sexual and reproductive health services in Estonia.	The program targeted 7-16 years old. The cost was \$5.6 million.	Cost-effectiveness	A UNESCO study found that between 2001-2008, approximately 13,490 negative health outcomes were prevented. This included unintended pregnancies (4,280), STIs transmission (7,240) and HIV infections (1,970). "In a cost-benefit analysis, based on HIV infections prevented and on HIV treatment costs alone, sexuality education would only have to be responsible for 4 per cent of all HIV infections averted to be considered as not only a cost-effective intervention but a cost-saving one too." ⁵⁵

55. United Nations Educational, Scientific and Cultural Organization. "Emerging Evidence, Lessons and Practice in Comprehensive Sexuality Education. A Global Review." 2015.

Program name	Program description	Issue being addressed	Result and Conclusion
Dating violence prevention programs in public middle schools	<p>This intervention was carried out in 30 middle schools in New York, targeting 117 6th and 7th grade classes (over 2500 students). The students were divided into three groups: one group received only “a six-session curriculum emphasizing the laws and consequences for perpetrators of dating violence and sexual harassment (DV/H), the social construction of gender roles, and healthy relationships” (the classroom group). The second group received a “building-based intervention included the use of building-based restraining orders, higher levels of faculty/security presence in safe/unsafe “hot spots” mapped by students, and posters to increase DV/H awareness and reporting” (the building group). And the last group received both types of interventions. Surveys were implemented at baseline, immediately after the intervention, and 6-months post-intervention.</p>	IPV	<p>The result was a change in attitude in both the second and third groups and a drop in incident rates. Raising awareness at an early stage in school can help change the attitudes of both young men and women.</p>
Introducing sexuality education curricula	<p>A study was conducted in 20 schools in southwestern Ontario targeting ninth grade health and physical education curriculum students, totaling 1722 students aged 14-15. The intervention was based on a 21-lesson curriculum with additional training on dating violence and healthy relationships.</p>	IPV	<p>Two and a half years later the result was reduced physical dating violence and increased condom use.⁵⁶ Introducing sexual health information in school curricula can be an effective way to combat partner violence.</p>

56. David A. Wolfe, PhD; Claire Crooks, PhD; Peter Jaffe, PhD; et alDebbie Chiodo, MA; Ray Hughes, MEd; Wendy Ellis, PhD; Larry Stitt, MSc; Allan Donner, PhD. “A School-Based Program to Prevent Adolescent Dating Violence: A Cluster Randomized Trial” Arch Pediatric Adolescent Medicine. 2009;163(8):692-699. doi:10.1001/archpediatrics.2009.69.

Program name	Program description	Issue being addressed	Result and Conclusion
Introducing sexuality education curricula	“Dating violence prevention was integrated with core lessons about healthy relationships, sexual health, and substance use prevention using interactive exercises. Relationship skills to promote safer decision making with peers and dating partners were emphasized.”		

Community mobilization and advocacy, including by working with Civil Society Organizations (CSOs)

Success stories in changing perceptions, attitudes and gender norms found through the desktop research all include some level of community engagement and mobilization.

Program name	Program description	Issue being addressed	Result and Conclusion
A review of studies documenting numerous interventions to reduce the occurrence of intimate partner violence	The most effective interventions are the ones that work directly with the communities. These interventions include group training for women and men, community mobilization, and livelihood and skills training interventions for women. This study of 58 reviews and 84 rigorously evaluated interventions was financed by the World Bank Group and the Australian Government. ⁵⁷	IPV	The key to their success, however, is that they be “participatory, engage multiple stakeholders, support critical discussion about gender relationships and the acceptability of violence, and support greater communication and shared decision making among family members, as well as non-violent behavior.”

57. Mary Ellsberg, Diana J Arango, Matthew Morton, Floriza Gennari, Sveinung Kiplesund, Manuel Contreras, Charlotte Watts. “Prevention of violence against women and girls: what does the evidence say?”

Program name	Program description	Issue being addressed	Result and Conclusion
Community advocates to support survivors	In one study in the US a pilot project engaged community advocates who were recruited to work with women survivors of intimate partner violence. It is questionable however whether the termination of this project would ultimately lead to vulnerability for these women advocates. ⁵⁸	IPV ; Community mobilization and engagement	The project found that the more support these women received from advocates the less likely they were to experience violence and reported a higher quality of life.
Education and training of health professionals	The New Zealand (NZ) national FGM education program targeted training healthcare professionals to reduce the rates of FGM.	FGM; Community mobilization and engagement	Key to the program’s success were the “consultation, training, resources and community-driven initiatives undertaken in close collaboration with communities affected by FGM and health professionals.” This included the development of curricular on FGM, clinical guidelines, resources and recommended best practices, drawing from quantitative and qualitative research on the health care experiences of women who had undergone the procedure. ⁵⁹

58. Sullivan, Cris & Bybee, Deborah. “Reducing Violence Using Community-Based Advocacy for Women With Abusive Partners” (1999). *Journal of consulting and clinical psychology*. 67. 43-53. 10.1037/0022-006X.67.1.43.

Program name	Program description	Issue being addressed	Result and Conclusion
Examining GBV interventions	<p>This paper reviews approaches and strategies that have and have not worked in addressing GBV. One of the areas it examines is the health sector response to GBV, and it finds that the best way to improve this response is through institutional reform. But it also argues that the health sector is positioned in a way that can help and work with the communities and NGOs to launch campaigns that raise awareness and attempt to change attitudes and behaviors.</p>	Cross-sectional approaches; community mobilization and engagement	<p>“Health sector coalitions can play an important role in advocating for public policy and institutional reform. Many NGOs have launched programs to promote community-wide changes in attitudes and practices related to gender norms and violence against women--often as a component of HIV/AIDS prevention or reproductive health programs. The few that have been well evaluated suggest that community-level approaches can be effective in changing violence-related attitudes and behaviors.”⁶⁰</p>

59. “Female Genital Mutilation/Cutting: sharing data and experiences to accelerate eradication and improve care”. *Reproductive Health*. 2017; 14(Suppl 2): 115. Published online 2017 Sep 15.

60. Sarah Bott, Andrew Morrison, and Mary Ellsberg. “Preventing and responding to gender-based violence in middle and low income countries”. World Bank Policy Research Working Paper 3618, June 2005.

While some of the success stories listed above examine single approaches or interventions, many of the experts agree that these problems require a comprehensive approach that tackles all aspects simultaneously; one needs to work on the education curricula, while designing community workshops and initiatives to raise awareness and increase access to information. At the same time work with other stakeholders like community leaders and health professionals to ensure proper implementation of these programs and initiatives. Finally, a strong backbone to all this is a proper policy and legislative framework that is rights-based and with sufficient funding to ensure these actions can be put in place.⁶¹ This was one of the recommendations of a report examining early and child marriage in India, regarding why the rates are declining at a slow rate.

*"Education continues to be the single most important predictor of age at marriage over time... Girls who have more education and wealthier families tend to marry later than illiterate and poorer girls....[G]aps and loopholes in policies, administrative challenges, and lack of awareness of these policies and programs among both implementers and intended beneficiaries are limiting their effectiveness. Effectively implementing current laws and policies will require a concerted effort to work with communities to change attitudes and norms, not just define enforcement mechanisms. Moreover, the government infrastructure already offers large scale investments such as mandatory schooling and conditional cash transfer programs, which can be more streamlined, targeted and effectively administered to reach desired results...That said, some promising pathways emerged from the analysis. These strategies include empowering girls [through education and livelihood training], mobilizing communities and influencing key decision-makers. Limited evaluation data inhibits the ability to identify discrete program elements that successfully delay marriage. Donors, researchers and implementing organizations should work together to build rigorous monitoring and evaluation systems that definitively identify, replicate and scale-up successful strategies. Donors need to extend funding cycles in ways that acknowledge the longer-term social change required to delay age at marriage."*⁶²

61. Sreela Das Gupta Sushmita Mukherjee Sampurna Singh Rohini Pande Sharmishtha Basu. "Knot Ready Lessons from India on Delaying Marriage for Girls." ICRW, 2008.

62. Sreela Das Gupta Sushmita Mukherjee Sampurna Singh Rohini Pande Sharmishtha Basu. "Knot Ready Lessons from India on Delaying Marriage for Girls." ICRW, 2008.

Measures undertaken after the violations have taken place

Preventative measures take time, and change will not happen overnight. In the meantime, violations will continue to take place and the research and analysis are looking for alternatives to the criminal justice system and incarceration as a punishment for these kinds of violations.

Reforms to the criminal justice system have had limited results, and attempts to increase accessibility have served the same groups of women with more privilege. The establishment of women police stations in Brazil is a case in point.⁶³

In addition to their concentration in urban centers, and to some being severely under-equipped and staffed, the training and type of intervention applied in these stations is questionable; with no formal training on VAW, many of these officers take on the role of mediator.⁶⁴

Some have suggested that it might be good to start with the question of incarceration, maybe attempt to envision solutions that do not lead to imprisonment of partners, fathers, and other family members, but at the same time, protect these women and girls from violence. One such program is the court-mandated intervention.

Today, court-mandated batterer intervention programs (BIPs) are being implemented throughout the United States as one of the leading methods to address this problem. These programs emerged from the women's shelter movement and therefore contained a strong feminist orientation. They developed as group-based programs, typically using psycho-educational methods. Their aim was to get men to take responsibility for their sexist beliefs and stop abusing their partners by teaching them alternative responses for handling their anger. However, an analysis of these types of programs finds that their effectiveness is limited.⁶⁵

63. Elizaveta Perova and Sarah Reynold. "Women's Police Stations and Domestic Violence Evidence from Brazil". World Bank Group, Poverty Global Practice Group. Policy Research Working Paper. November 2015.

64. Cecilia M. B. Sardenberg. "Ten Years of Maria Da Penha Law: Advancements and Shortcomings in Confronting Gender Based Violence Against Women in Brazil". Revista Feminismos. Vol.4, N.1, Jan - Abr. 2016.

Another resource argues that they are ineffective because they are limited in scope; one needs to target the entire community and not just the perpetrators to introduce real change to gender norms and beliefs and stereotypes. “Thus women and men, and younger and older people, all need to be actively involved in prevention efforts for sustainable gender transformation to be achieved, since gender norms are reproduced through generations and operate across the life course and not only among those most at risk of current perpetration.”⁶⁶

Another type of alternative measure seeks to complement the loopholes in the criminal justice system that make it ineffective. One such system is the restorative justice system. A lot of research exists on restorative justice (RJ) but in the global north and mostly around domestic violence/intimate partner violence. Some of the experts interviewed have also supported restorative justice as an alternative, in early and child marriage, as well as in intimate partner violence.

The arguments for restorative justice are that it protects women and children while ending the violation, it is victim-centered (a process led by the victim) and it allows for enough flexibility to accommodate each case’s peculiarities.⁶⁷ “The main objective of RJ in public crime is reparation (to restore the harm done), retribution and rehabilitation of the community. It is about working on taking responsibility and maybe apologizing, but in case of IPV the priority is to stop the violence and when there are children, to agree, for example, on safe and caring visiting agreements.”⁶⁸ Furthermore, it could complement the criminal justice in some ways – so addressing any gaps that the criminal justice system does not address adequately, also allowing for a more rehabilitative and re-integrative framework for the offenders.⁶⁹

Additionally, some research suggests that the public could be more supportive of these ideas.⁷⁰ Swagata Raha confirms this.⁷¹ Restorative justice gives victims “what they need.” There is plenty of empirical evidence on delivering justice to victims, it is a much more holistic approach to harm, and it looks at the community’s involvement. “I feel like it gives more autonomy to victims, [as opposed to the criminal justice system where] the control is in the

65. Feder L, Wilson DB, Austin S. Campbell. “Court-Mandated Interventions for Individuals Convicted of Domestic Violence”. Systematic Reviews 2008:12 DOI: 10.4073/csr.2008.12

66. Rachel Jewkes, Michael Flood, James Lang. “From work with men and boys to changes of social norms and reduction of inequities in gender relations: a conceptual shift in prevention of violence against women and girls”. The Lancet. VOLUME 385, ISSUE 9977. April 18, 2015.

67 Lisanne Drost Birgitt Haller Veronika Hofinger Tinka van der Kooij Katinka Lünemann Annemieke Wolthuis. “Restorative Justice in Cases of Domestic Violence”. Criminal Justice 2013 with the financial support of the European Commission Directorate-General Justice, Directorate B: Criminal Justice. January 2015.

68 Lisanne Drost Birgitt Haller Veronika Hofinger Tinka van der Kooij Katinka Lünemann Annemieke Wolthuis. “Restorative Justice in Cases of Domestic Violence”. Criminal Justice 2013 with the financial support of the European Commission Directorate-General Justice, Directorate B: Criminal Justice. January 2015.

69 Innovative justice responses to sexual offending. Centre for Innovative Justice. May 2014.

70 Francesca Marsh and Nadia M. Wager. “Restorative justice in cases of sexual violence: Exploring the views of the public and survivors.” Probation Journal 2015, Vol. 62(4) 336–356.

71 Interview with Swagata Raha, February 5 2019 over Zoom. A recording of the interview is available with RESURJ.

hand of the state, and no scope to get answers. Finally, because it works with the community at large, the work can be deemed both preventive and remedy, but also it can be streamlined into other settings allowing all sides to be more comfortable and accepting of the process and its results.” The research also supports this. One article argues that the flexibility in restorative system approaches allows for the interventions to occur in many settings, ranging from sexual assault centers, to schools, neighborhoods, and even prisons, with awareness-raising programs about gender and violence.⁷² Mehra agrees with that assessment, saying that NGOs can navigate and lead the process and it will allow “one girl’s story [to] inspire other girls. [But also] help the young to get married if they want even though its against the law.”⁷³

Criminal Justice	Restorative Justice
What law has been broken?	Who has been harmed?
Who broke the law?	What are their needs?
What do they deserve?	Who is obligated to repair the harm?

Source: *Perspectives of Justice: Restorative Justice and Child Sexual Abuse in India*. 2018.

Raha argues there’s room to apply restorative justice in India.⁷⁴ Research indicates that there are some restorative justice principles in criminal laws, but it is not a well-known system or alternative yet. Research also indicates that if there is no support as of yet to push for reforming laws to include restorative justice (including in child abuse laws), then stakeholders can start by pushing for implementation of existing articles that include some form of restorative justice. Restorative justice mechanisms can also be used during imprisonment as a form of rehabilitation or as a means of reintegrating prisoners and survivors with their families. These mechanisms can also be used when the survivor and community feel the need to confront the violations and the offenders and try to get a better understanding of all the events.

Edwin also argues for restorative justice approaches, emphasizing how it places the communities back in the center and in control. What is needed is “a system led by the communities themselves. Community buy-in. Building power together. Feeling that you have the power. And having access to these [processes].”⁷⁵ One must also ensure that there is sufficient funding for these types of initiatives.

72 Mary Koss and Mary Achilles. “Restorative Justice Responses to Sexual Assault”. Applied Research Forum. February 2008.

73 Interview with Madhu Mehra, February 19 2019 over Zoom. A recording of the interview is available with RESURJ.

74 Interview with Swagata Raha, February 5 2019 over Zoom. A recording of the interview is available with RESURJ.

75. Interview with Edwin Bernard, February 18 2019 over Zoom. A recording of the interview is available with RESURJ. February 19 2019 over Zoom. A recording of the interview is available with RESURJ

At the same time, there is a huge research gap in expanding and exploring this system in the Global South. Furthermore, not all research is supportive of restorative justice; just as there are arguments for, there are also arguments against that need to be considered if one were to adopt such a method. For example, restorative justice can only come into force after the offender has admitted to the crime; it does not offer investigation which means that it can never completely replace the criminal justice system.⁷⁶ There is also some question as to whether the process is able to really achieve restorativeness. “The measures of restorativeness ...include the degree to which the offender was remorseful, spontaneously apologized to the victim, and understood the impact of the crime on the victim; the degree to which victims understood the offender’s situation; and the extent of positive movement between the offender, victim, or their supporters. Depending on the variable, restorativeness was present in 30 to 60 percent of the youth justice conferences studied. Thus, RJ conferences receive high marks for procedural fairness and victim and offender participation, but it may be more difficult for victims and offenders to resolve their differences or to find common ground in an RJ meeting.” It is also not clear whether the victims actually receive a sincere apology.

Moreover, some survivors find that they remain trapped in victimization and that it did not help overcome this due to the depth of the violation. The author concludes by arguing for modest expectations when using RJ process. Other research suggests that RJ has limited effects on reducing re-offending, this is particularly true for youth offenders who might not engage in the process with real knowledge or understanding.⁷⁷

Additionally, some other experts are skeptical that this could be applied in countries of the Global South. Sara Mohamed and Sheena Hadi both argue that in countries where there are huge restrictions placed by the government, setting up alternative systems will not work. “We’re very far from being able to think of the concept,”⁷⁸ argues Hadi. Mohamed agrees. “There’s no space for para-judicial mechanisms. The state will not allow you. You cannot replace the judiciary.”⁷⁹ Egypt’s experience with conciliation and traditional methods of dispute settlement has been quite problematic to date, as witnessed by the traditional conciliation sessions in resolving sectarian conflict. These are greatly manipulated by the state to reach decisions that it favors, they often force one side to accept terms that run contrary to human rights and are unjust, and in the cases where the disputes broke out due to an inter-religious consensual sexual relationship, will often force the woman to return to her family against her will or force other decisions upon her and her partner of choice.⁸⁰

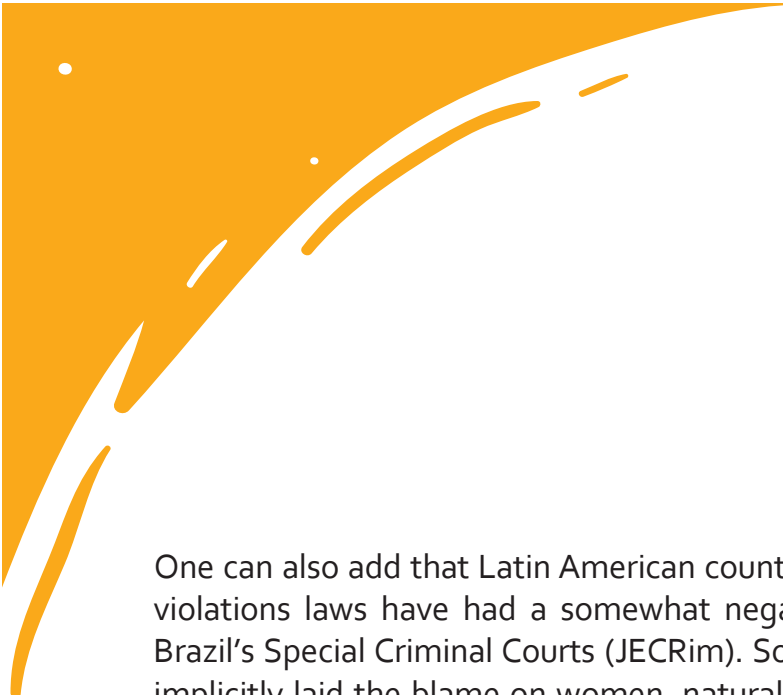
76. Kathleen Daly. “The Limits of Restorative Justice”. Handbook of Restorative Justice: A Global Perspective. Dennis Sullivan and Larry Tift (eds.) New York: Routledge.

77. Masahiro Suzuki and William R Wood. “Is restorative justice conferencing appropriate for youth offenders?”. *Criminology & Criminal Justice*, 2017.

78. Interview with Sheena Hadi, March 5 2019 over BOT.

79. Interview with Sara, March 27, 2019 over the phone.

80. “Perspectives of Justice: Restorative Justice and Child Sexual Abuse in India”. Counsel to Secure Justice Centre for Criminology and Victimology National Law University Delhi 2018.



One can also add that Latin American countries that had conciliation methods in their sexual violations laws have had a somewhat negative experience with the process; for example, Brazil's Special Criminal Courts (JECRim). Some of the problems with this project was that it implicitly laid the blame on women, naturalized the violence by insisting on the necessity of conciliation, and put women and their abusers on equal footing-placing the burden on women to lead the proceedings. It also took the responsibility away from the state to investigate and prosecute, and without proper legal representation to restore the imbalance created by the dynamics of abuse. The judges also did not have any adequate protection measures to provide women in the interim.⁸¹ "The dual system of handling "minor" offenses through consensual justice forums, and "serious" offenses through the normal criminal courts, which Burgos (2001) characterizes as two "micro-systems," also introduces an economy of violence by normalizing a certain level as acceptable in a relationship... The hybrid character of the JECrims (criminal courts using a civil type procedure) combines the worst of both systems by effectively decriminalizing the offense and forcing women into a conciliation procedure that does not meet their needs."

One research paper suggests that the two processes can be used to complement each other depending on several factors, such as the involvement of the community (a prerequisite in RJ models) and the sincerity of feeling remorse and the seriousness of the crime and whether due to its gravity, the survivor wants healing (RJ) or retribution (CJ).⁸²

81. The Judicialization of Politics in Latin America. Edited by Rachel Sieder, Une Schjolden, and Alan Angell. Chapter 9 Private Conflicts, Public Powers: Domestic Violence in the Courts in Latin America Fiona Macaulay, p211. 2005.

82. Hadar Dancig-Rosenberg & Tali Gal. "Restorative Criminal Justice". Cardozo Law Review. Vol. 34:2313, 2013.

CONCLUSION AND RECOMMENDATIONS

It is clear that laws and the criminal justice system alone will not be able to effectively combat rampant sexual and reproductive rights violations against women and girls across the world, including intimate partner violence, early and child marriage and FGM. While the normative value of the law remains important as an expression by the state that it is willing to combat these violations, it is equally important for feminists and allies to advocate for an interlinked and intersectional approach that addresses economic, environmental and social justice issues and can successfully connect them with sexual and reproductive justice, and place survivors at the center. This conclusion is reached based on the findings of the desktop review conducted and supported by the experts' interviews.

Many believe that the obligation to respect human rights and prevent violations entails an obligation upon states to criminalize and adopt the appropriate legal framework to prevent the violations from reoccurring. There are many principles in human rights law however that would not give any state a blanket authorization to criminalize and penalize without also ensuring respect for non-discrimination, in particular against women, youth and minorities. A human rights-based approach would also include monitoring and evaluating mechanisms to properly assess the various programs around equality, community participation, justice and rights implemented by states.

Based on this, there are several recommendations to be made going forward, for all stakeholders:

1. Stop passing new laws and stop increasing penalties to address SRR violations, especially incarceration, without first examining the shortcomings of existing laws: any attempt to push for new laws will only lead to the passage of another law that is ineffective and cannot be implemented. Instead, states, donors, and civil society at large should work together to review and examine existing laws and penalties, and address identified limitations accordingly. States and donors also need to ensure that laws are sufficiently funded for effective implementation.

2. Identify and invest in new research: more research and funding should be devoted to addressing research gaps on the impact of criminalization of SRR violations, on sexual and reproductive rights, in particular in countries of the Global South. Additionally, more research and funding should be directed towards the interlinkage between economic justice, social services, climate change, gender norms, and inequality as well as examining the shortcomings of criminalizing violations related to LGBTQI rights and gender non-conforming individuals.

3. Address root causes and adopt an intersectional approach: instead of investing more money and resources in building prisons and passing criminal laws, these funds should be re-directed towards economic and social services, including sexual and reproductive health services (that are coordinated and comprehensive), as well as climate crisis mitigation and adaptation. Donors and states need to invest in research and evidence to support this approach and ensure more effective implementation.

4. Introduce Comprehensive Sexuality Education programs: the few interventions examined in the desk review as well as the analysis provided by the experts place great emphasis on comprehensive sexuality education as an important starting point to address gender inequality and stereotypes as well as to build adolescents and young people's autonomy and agency over their bodies. States already have the infrastructure in place to disseminate sexual and reproductive health information to young people. Introducing rights-based curriculum sexuality education is a cost-efficient way of preventing violence, addressing gender power relations, and ultimately empowering young people and adolescents to take care of their bodies and health while also preventing sexual and reproductive rights violations.

5. Ensure community and stakeholder participation, in particular, the involvement of CSOs: without the involvement of women and girls in all their diversity and their communities, a strong understanding of the problem will remain absent. These players are key in tailoring solutions that fit their needs and respond to what justice means to them. Additionally, civil society is an important partner, with great access and numerous innovative projects. States need to ensure that CSOs are allowed the space to work, and donors need to continue to fund these organizations and support governments that involve CSOs as partners in implementation.

6. Examine restorative justice and other alternative systems: the basic principles of restorative justice are important tools to ensure that survivors can reach some sort of restorativeness, which communities can have a dialogue and find agreements around these issues and that perpetrators are properly rehabilitated and reintegrated. However, restorative justice allows for flexibility in implementation, and this is key: not all the issues and not all communities can utilize this approach as both material and symbolic dimensions of what constitutes justice varies from person to person and is context-specific. More research needs to be invested in how to tailor this to the countries in the Global South.

In conclusion, it is important for feminists, advocates, and donors to re-examine the call to states to criminalize sexual and reproductive rights violations. It is also critical to ensure that they are pushing for more comprehensive, interlinked and sustainable strategies that do not emphasize the successful passage of the law alone. As put adequately by one of the articles reviewed here, “The intersectional approach to violence is similar to the feminist one in certain aspects, given that it is also based on a structural view of the domination of women. But it considers the intersection of several systems of oppression, such as patriarchy, racism, and capitalism, and it also incorporates the gender perspective and the need to work with men, perpetrators of violence.”⁸³ Such strategies would also benefit greatly from adopting a human rights approach and perspective.

83. Cecilia M. B. Sardenberg. “Ten Years of Maria Da Penha LaW: Advancements and Shortcomings in Confronting Gender Based Violence Against Women in Brazil”. *Revista Feminismos*. Vol.4, N.1, Jan - Abr. 2016.

ANNEX 1: RESOURCES IDENTIFIED AND REVIEWED AND THE CONCLUSIONS OF WHICH ARE SUMMARIZED IN THIS REPORT

What are the shortcomings of the criminal justice systems in addressing violations based on research in certain topics/areas?

[A Critical Understanding of Resistance to Criminalization of Female Genital Mutilation in Kenya | SpringerLink.](#)

Bunei E.K., Rono J.K. (2018) A Critical Understanding of Resistance to Criminalization of Female Genital Mutilation in Kenya. In: Carrington K., Hogg R., Scott J., Sozzo M. (eds) The Palgrave Handbook of Criminology and the Global South. Palgrave Macmillan, Cham. First Online 13 January 2018.

[A Tradition in Transition: Factors Perpetuating and Hindering the Continuance of Female Genital Mutilation/Cutting \(FGM/C\) Summarized in a Systematic Review.](#)

Rigmor C. Berg & Eva Denison (2013). Health Care for Women International, 34:10, 837-859, DOI: 10.1080/07399332.2012.721417

[Criminalizing sexuality or preventing child marriage: legal interventions and girls' empowerment.](#) Santelli, John & Spindler, Esther & Moore, Erin & McGovern, Terry. (2018). The Lancet Child & Adolescent Health. 10.1016/S2352-4642(18)30370-5.

[Empowering Women: Legal Rights and Economic Opportunities in Africa.](#) Mary Hallward-Driemeier and Tazeen Hasan Overview The World Bank Washington, DC. 2011.

[Female Genital Mutilation/Cutting: sharing data and experiences to accelerate eradication and improve care.](#) Reproductive Health. 2017; 14(Suppl 2): 115. Published online 2017 Sep 15. Patrizia Farina¹, Els Leye², Livia Ortensi¹, Claudia Pecorella³

[Geographic Variation of Female Genital Mutilation and Legal Enforcement in Sub-Saharan Africa: A Case Study of Senegal.](#) Ngianga-Bakwin Kandala, Paul N. Komba. The American Society of Tropical Medicine and Hygiene, Volume 92, Issue 4, Apr 2015, p. 838 – 847. [Legislating Social Change in an Islamic Society-](#)

[Indonesia's Marriage Law on JSTOR.](#) Mark Cammack, Lawrence Young and Tim Heaton. The American Journal of Comparative Law, Vol. 44, No. 1 (Winter, 1996), pp. 45-73.

[Preventing and responding to gender-based violence in middle and low income countries.](#) Sarah Bott, Andrew Morrison, and Mary Ellsberg. World Bank Policy Research Working Paper 3618, June 2005.

[Ten Years of Maria Da Penha Law: Advancements and Shortcomings in Confronting Gender Based Violence Against Women in Brazil.](#) Cecilia M. B. Sardenberg. Revista Feminismos. Vol.4, N.1, Jan - Abr. 2016.

[The Crisis of Criminalization.](#) Barnard Center for Research on Women, March 2017.

[The history and role of the criminal law in anti-FGM campaigns: Is the criminal law what is needed, at least in countries like Great Britain?](#) Marge Berer. Reproductive Health Matters, 23:46, 145-157, DOI: 10.1016/j.rhm.2015.10.001.

[The Impact of Criminalization of Female Genital Mutilation in England.](#) Charlotte Rachael Proudman King's College May 2017 This dissertation is submitted for the degree of Doctor of Philosophy.

[The Judicialization of Politics in Latin America.](#) Edited by Rachel Sieder, Une Schjolden, and Alan Angell. Chapter 9 Private Conflicts, Public Powers: Domestic Violence in the Courts in Latin America Fiona Macaulay, p211. 2005.

[The limited effectiveness of legislation against female genital mutilation and the role of community beliefs in Upper East Region, Ghana.](#) Matilda Aberese Ako and Patricia Akweongo. Reproductive Health Matters 2009;17(34):47-54.

WHAT ELSE, BESIDES PENAL PROVISIONS AND CRIMINALIZATION, WORKS?

Preventive measures: measures that address the root causes (such as addressing gender stereotyping through CSE)

[A School-Based Program to Prevent Adolescent Dating Violence: A Cluster Randomized Trial | Adolescent Medicine | JAMA Pediatrics | JAMA Network](#) David A. Wolfe, PhD; Claire Crooks, PhD; Peter Jaffe, PhD; et al Debbie Chiodo, MA; Ray Hughes, MEd; Wendy Ellis, PhD; Larry Stitt, MSc; Allan Donner, PhD. Arch Pediatr Adolesc Med. 2009;163(8):692-699.

[Advocacy interventions to reduce or eliminate violence and promote the physical and psychosocial well-being of women who experience intimate partne... - PubMed - NCBI.](#) Rivas C, Ramsay J, Sadowski L, Davidson LL, Dunne D, Eldridge S, Hegarty K, Taft A, Feder G. Cochrane Database of Systematic Reviews 2015, Issue 12. Art. No.: CD005043. DOI: 10.1002/14651858.CD005043.pub3.

[Are climate challenges reinforcing child and forced marriage and dowry as adaptation strategies in the context of Bangladesh?](#) Margaret Alston, Kerri Whittenbury, Alex Haynes and Naomi Godden. Women's Studies International Forum. November 2014.

["Emerging Evidence, Lessons and Practice in Comprehensive Sexuality Education. A Global Review."](#) United Nations Educational, Scientific and Cultural Organization. 2015.

[Empowering adolescent girls in rural Bangladesh: Kishori Abhijan.](#) Sajeda Amin. Brief no. 13 Updated May 2011.

[Evaluation of Berhane Hewan: A Program to Delay Child Marriage in Rural Ethiopia | Guttmacher Institute.](#) Annabel S. Erulkar and Eunice Muthengi. International Perspectives on Sexual and Reproductive Health. A journal of peer-reviewed research. Volume 35, Issue 1. March 2009.

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[Gender equality, climate change and education for sustainability.](#) Ana Agostino. Newsletter for Beyond Access: Gender, Education and Development. Issue 24, February 2010.

[Genital Mutilation as an Expression of Power Structures: Ending FGM through Education, Empowerment of Women and Removal of Taboos on JSTOR.](#) Finke, Emanuela. African Journal of Reproductive Health / La Revue Africaine De La Santé Reproductive, vol. 10, no. 2, 2006, pp. 13-17. JSTOR.

[Hope Dries Up? Women and Girls Coping with Drought and Climate Change in Mozambique.](#) Care International. November 2016.

[How do we know if men have changed? Promoting and measuring attitude change with young men: lessons from Program H in Latin America.](#) Gary Barker, Marcos Nascimento, Márcio Segundo, Julie Pulerwitz. Ruxton, S. (ed) Gender Equality and Men: Learning from Practice, Oxfam GB, 147-161, 2005.

[Improving the healthcare response to domestic violence and abuse in primary care: protocol for a mixed method evaluation of the implementation of a complex intervention.](#) Alex Hardip Sohal, corresponding author¹ Gene Feder,² Estela Barbosa,³ Lee Beresford,¹ Anna Dowrick,¹ Farah El-Shogri,¹ Annie Howell,⁴ Natalia Lewis,¹ Medina Johnson,⁴ Claire Nightingale,¹ Kambiz Boomla,¹ Stephen Morris,³ Sandra Eldridge,¹ and Chris Griffiths¹. BMC Public Health. 2018; 18: 971. Published online 2018 Aug 3.

[Interventions for preventing or reducing domestic violence against pregnant women - Jahanfar, S - 2013](#) | Cochrane Library. Jahanfar S, Janssen PA, Howard LM, Dowswell T. Interventions for preventing or reducing domestic violence against pregnant women. Cochrane Database of Systematic Reviews 2013, Issue 2. Art. No.: CD009414. DOI: 10.1002/14651858.CD009414.pub2.

[Intimate Partner Violence and Femicide in Ecuador.](#) Santiago Boira, Lucia Tomas-Aragones and Nury Rivera. Qualitative Sociology Review. Volume XIII Issue 3, 2017.

[Knot Ready Lessons from India on Delaying Marriage for Girls.](#) Sreela Das Gupta Sushmita Mukherjee Sampurna Singh Rohini Pande Sharmishtha Basu. ICRW, 2008.

[Preventing and responding to gender-based violence in middle and low income countries.](#) Sarah Bott, Andrew Morrison, and Mary Ellsberg. World Bank Policy Research Working Paper 3618, June 2005.

[Prevention of violence against women and girls: what does the evidence say?](#) Mary Ellsberg, Diana J Arango, Matthew Morton, Floriza Gennari, Sveinung Kiplesund, Manuel Contreras, Charlotte Watts. The Lancet. VOLUME 385, ISSUE 9977. April 18, 2015.

[Protection versus rights: age of marriage versus age of sexual consent.](#) Suzanne Petroni, Madhumita Das, Susan M Sawyer. Lancet Child Adolesc Health 2018 Published Online December 5, 2018.

[Providing new opportunities to adolescent girls in socially conservative settings: The Ishraq program in rural Upper Egypt.](#) Martha Brady, Ragui Assaad, Barbara Ibrahim, Abeer Salem, Rania Salem, Nadia Zibani. The Population Council. 2017.

[Reducing Violence by Transforming Neighborhoods: A Natural Experiment in Medellín, Colombia.](#) Magdalena Cerda, Jeffrey D. Morenoff, Ben B. Hansen, Kimberly J. Tessari Hicks, Luis F. Duque, Alexandra Restrepo, and Ana V. Diez-Roux. American Journal of Epidemiology, Volume 175, Issue 10, 15 May 2012, Pages 1045–1053. [Reducing Violence Using Community-Based Advocacy for Women With Abusive Partners.](#) Sullivan, Cris & Bybee, Deborah. (1999). Journal of consulting and clinical psychology. 67. 43-53. 10.1037/0022-0

[Shifting Boundaries: An Experimental Evaluation of a Dating Violence Prevention Program in Middle Schools | SpringerLink.](#) Taylor, B.G., Stein, N.D., Mumford, E.A. et al. Prev Sci (2013) 14: 64. <https://doi.org/10.1007/s11121-012-0293-2>. 19 October 2012

[Solutions to End Child Marriage - What the Evidence Shows.](#) Anju Malhotra Ann Warner Allison McGonagle Susan Lee-Rife. ICRW. 2011.

[The short-term impacts of a schooling conditional cash transfer program on the sexual behavior of young women - Baird - 2010 - Health Economics - Wiley Online Library.](#) Sarah Baird, Ephraim Chirwa, Craig McIntosh and Berk O'Zler. Health Econ. 19: 55–68 (2010). Published online 27 November 2009 in Wiley InterScience.

[What Works to Prevent Partner Violence.](#) Lori "L." Heise" Chief Executive. STRIVE Research Consortium. December 2011.

[Women's Police Stations and Domestic Violence Evidence from Brazil.](#) Elizaveta Perova and Sarah Reynold. World Bank Group, Poverty Global Practice Group. Policy Research Working Paper. November 2015.

Measures that are undertaken after the violations have occurred and seek to provide redress or prevent reoccurrence

[**A Comparative Analysis of Restorative Justice Practices in Africa.**](#) Julena Jumbe Gabagambi. Hauser Global Law School Program, New York University School of Law. October 2018.

[**Court-Mandated Interventions for Individuals Convicted of Domestic Violence.**](#) Feder L, Wilson DB, Austin S. Campbell Systematic Reviews 2008:12 DOI: 10.4073/csr.2008.12

[**Criminalization and Sexuality.**](#) Partners for Law in Development. Critical Reflections. From: Roundtable on Exploring the Continuum between Sexuality and Sexual Violence. April 28, 2015.

[**From work with men and boys to changes of social norms and reduction of inequities in gender relations: a conceptual shift in prevention of violence against women and girls.**](#) Rachel Jewkes, Michael Flood, James Lang. The Lancet. VOLUME 385, ISSUE 9977. April 18, 2015.

[**Innovative justice responses to sexual offending**](#) Centre for Innovative Justice. May 2014.

[**Is restorative justice conferencing appropriate for youth offenders?**](#) Masahiro Suzuki and William R Wood. Criminology & Criminal Justice, 2017.

[**Perspectives of Justice: Restorative Justice and Child Sexual Abuse in India.**](#) Counsel to Secure Justice Centre for Criminology and Victimology National Law University Delhi 2018.

[**Preventing and responding to gender-based violence in middle and low income countries.**](#) Sarah Bott, Andrew Morrison, and Mary Ellsberg. World Bank Policy Research Working Paper 3618, June 2005.

[**Restorative Criminal Justice.**](#) Hadar Dancig-Rosenberg & Tali Gal. Cardozo Law Review. Vol. 34:2313, 2013.

[**Restorative Justice in Cases of Domestic Violence.**](#) Lisanne Drost Birgitt Haller Veronika Hofinger Tinka van der Kooij Katinka Lünemann Annemieke Wolthuis. Criminal Justice 2013 with the financial support of the European Commission Directorate-General Justice, Directorate B: Criminal Justice. January 2015.

[**Restorative justice in cases of sexual violence: Exploring the views of the public and survivors.**](#) Francesca Marsh and Nadia M. Wager. Probation Journal 2015, Vol. 62(4) 336–356.

[**Restorative Justice in Indigenous Communities: Critical Issues in Confronting Violence Against Women.**](#) Zellerer, E. (1999). International Review of Victimology, 6(4), 345–358.

[**Restorative Justice Responses to Sexual Assault.**](#) Mary Koss and Mary Achilles. Applied Research Forum. February 2008.

[**The Limits of Restorative Justice.**](#) Kathleen Daly. Handbook of Restorative Justice: A Global Perspective. Dennis Sullivan and Larry Tifft (eds.) New York: Routledge.

ANNEX 2: LISTS OF EXPERTS INTERVIEWED

NAME	ORGANIZATION	REGION
Swagata Raha	Consultant - child rights	India
Edwin Bernard	HIV Justice Worldwide	UK based, referencing Africa work
Madhu Mehra	Partners for Law in Development	India
Estefania Barba	Centro de Investigación y Docencia Económicas (CIDE)/ Intersecta	Mexico
Margaret Greene	Girls Not Brides - Early marriage	Global
Sara Mohamed	Sexual and reproductive rights researcher	Egypt
Musu Bakoto	Think Young Women	The Gambia
Sheena Hadi	Aahung	Pakistan

ANNEX 3: RESURJ'S RESOURCES ON THE SHORTCOMINGS OF PENAL POLICIES IN ADDRESSING SEXUAL AND REPRODUCTIVE RIGHTS VIOLATIONS

- Outcome Statement: "[Shortcomings of Penal Policies in Addressing Sexual and Reproductive Rights Violations](https://tinyurl.com/utjkm9)"
URL: <https://tinyurl.com/utjkm9>
- Webinar: "[Shortcomings of Penal Policies in Addressing Sexual and Reproductive Rights Violations](https://tinyurl.com/ub5vwan)"
URL: <https://tinyurl.com/ub5vwan>
- Webpage: "[Shortcomings of Criminalization](https://tinyurl.com/wp45muo)"
URL: <https://tinyurl.com/wp45muo>



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