

# GENDER-BASED VIOLENCE



**Addressing gender-based violence is critical to protecting sexual and reproductive health and rights. Gender-based violence affects women everywhere. It impacts women's health, hampers their ability to participate fully in society, affects their enjoyment of sexual and reproductive health and rights, and is a source of tremendous physical and psychological suffering for both women and their families.**

Recent research has shown that women who have been subjected to violence by their partners have greater chances of having miscarriages, stillbirths, premature birth and low birth-weight babies, are at much greater risk of depression, and are more likely to have an induced abortion.<sup>1</sup> They are also at a higher risk of contracting HIV.<sup>2</sup>

The Declaration on the Elimination of Violence against Women defines "violence against women" as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." The Declaration requires States to "exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons."<sup>3</sup>

The Committee on the Elimination of Discrimination against Women has recognized gender-based violence against women as a form of discrimination that impairs or nullifies women's enjoyment of human rights and fundamental freedoms such as the right to life, not to be subject to torture or to cruel, inhuman or degrading treatment or punishment, to liberty and security of person, to equal protection under the law, and to the highest standard attainable of physical and mental health.<sup>4</sup> Gender-based violence additionally has "an adverse impact on the ability of women to gain access to justice on an equal basis with men."<sup>5</sup>



Women's rights movements have been instrumental in ensuring that the international community keeps discussing gender-based violence as a human rights concern on the global, regional and national agendas. At the International Conference on Population and Development in 1994, States recognized the need to eliminate all forms of violence against women<sup>6</sup> and committed to "take full measures to eliminate all forms of exploitation, abuse, harassment and violence against women, adolescents and children."<sup>7</sup>

Similarly, the Beijing Platform for Action establishes that women's rights include their right to "sexual and reproductive health, free of coercion, discrimination and violence."<sup>8</sup>

In Sustainable Development Goal 5, States have committed to "eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation" by 2030.

The Commission on the Status of Women has acknowledged the interrelationship between violence against women and their sexual and reproductive health and rights. Indeed, protecting and fulfilling reproductive rights "is a necessary condition to achieving gender equality and the empowerment of women in order to enable them to enjoy all their human rights and fundamental freedoms, and **to prevent and mitigate violence against women.**"<sup>9</sup>

## KEY ISSUES

### 1 GENDER-BASED VIOLENCE IS A FORM OF DISCRIMINATION AND A HUMAN RIGHTS VIOLATION

*Gender-based violence is a manifestation of historically unequal power relations between men and women.*

Vulnerability to gender-based violence is understood as a condition created by the absence or denial of rights.<sup>10</sup> The Committee on the Elimination of Discrimination against Women stresses that such violence is linked to gender-based inequalities, such as the ideology of men's

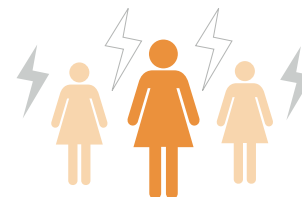
IN 2017, A TOTAL OF 87,000 WOMEN WERE KILLED GLOBALLY. MORE THAN HALF (58%) WERE KILLED BY INTIMATE PARTNERS OR FAMILY MEMBERS



MORE THAN ONE IN THREE WOMEN (35%) GLOBALLY REPORT HAVING EXPERIENCED PHYSICAL AND/OR SEXUAL INTIMATE PARTNER VIOLENCE OR NON-PARTNER SEXUAL VIOLENCE IN THEIR LIFETIME



42% OF WOMEN WHO HAVE BEEN PHYSICALLY AND/OR SEXUALLY ABUSED BY A PARTNER HAVE EXPERIENCED INJURIES AS A RESULT OF THAT VIOLENCE



Sources: World Health Organization, *Violence against Women, Key Facts* (2017); United Nations Office on Drugs and Crime, *Global Study on Homicide – Gender related killing of women and girls* (2018).

In 2017, in its General Recommendation No. 35 on gender-based violence against women, the Committee on the Elimination of Discrimination against Women puts forth an understanding of gender-based violence which includes violations of sexual and reproductive health and rights, which may also amount to torture or cruel, inhuman or degrading treatment.<sup>12</sup>



*Appropriate legal and policy responses should take into account that women experience varying and intersecting forms of discrimination.*<sup>13</sup>

Women in all countries, irrespective of status, class, age, caste or religion, experience violence in virtually all spheres of life, whether in the home, the school, at work, on the street, in government institutions, or in times of conflict or crisis.

However, specific groups of women, such as women with disabilities, migrant women, refugee and internal displaced women, indigenous women, minority women, women living in poverty, women living with HIV/AIDS, rural women and lesbian, bisexual and transgender women, amongst many others, suffering from various forms of discrimination are particularly vulnerable to violence.<sup>14</sup>

For example, an adolescent lesbian girl may face violence on multiple bases including her sexual orientation, gender-identity and age. Both the Committee on the Elimination of Discrimination against Women and the Special Rapporteur on violence against women, its causes and consequences have expressed concerns about lesbian women being raped to be “cured” of their sexual orientation.<sup>15</sup> Women and girls with disabilities face multiple barriers to the enjoyment of sexual and reproductive rights and are particularly vulnerable to forced, coerced and involuntary pregnancy or sterilization.<sup>16</sup> They also face a heightened risk of violence, which can take many forms.<sup>17</sup> Likewise women migrant workers are vulnerable to sexual abuse and harassment, which can be exacerbated by precarious immigration status.<sup>18</sup>

NUMBER OF ALL WOMEN KILLED BY INTIMATE PARTNERS OR FAMILY MEMBERS IN 2017

Global  
**50,000**

Asia  
**20,000**

Africa  
**19,000**

Americas  
**8,000**

Europe  
**3,000**

Oceania  
**300**

Source: United Nations Office on Drugs and Crime, *Global Study on Homicide – Gender related killing of women and girls (2018)*, p. 10.

**2 GENDER-BASED VIOLENCE IS NOT A PRIVATE MATTER, BUT A HUMAN RIGHTS VIOLATION THAT GENERATES STATE RESPONSIBILITY**

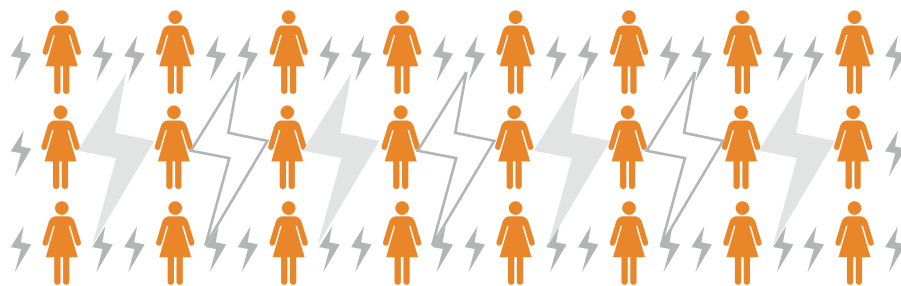
*States have an obligation to act with due diligence to address and respond to all acts of violence against women.*<sup>19</sup>

The Committee on the Elimination of Discrimination against Women has explained that States have a due diligence obligation, meaning States “will be held responsible should they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparations for, acts or omissions by non-State actors that result in gender-based violence against women.”<sup>20</sup> The due diligence obligation requires States to implement diverse measures to address violence against women by private individuals, notably, by ensuring that laws and institutions are in place to address

such violence effectively. The obligation of due diligence extends to conflict, post-conflict and transition situations.<sup>21</sup>

*States need to strengthen efforts to prevent gender-based violence.*

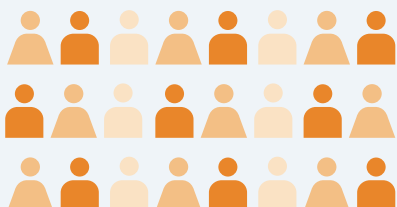
The Committee on the Elimination of Discrimination against Women has highlighted the need to strengthen prevention of gender-based violence against women, including through effective legislative and other preventive measures to address the underlying causes of such violence, including patriarchal attitudes and stereotypes, education, awareness-raising programmes involving the media, capacity building for the judiciary, and by making public spaces safe and accessible to all women and girls.<sup>22</sup>



## COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

In two cases decided by the CEDAW Committee in 2005, the respective victims were killed by their husbands following years of abuse. The violence had been reported to the police and protection orders had been issued. However, lack of coordination among the law enforcement authorities resulted in the repeated failure to detain the perpetrators and ensure the women's safety.

In both cases, the Committee found violations of the rights of the deceased women to life and physical and mental integrity. As the police knew or should have known that the victims were in serious danger, the State had failed to exercise due diligence to protect the victims. The Committee recommended that the State party strengthen its implementation and monitoring of national laws on domestic violence, by "acting with due diligence to prevent and respond to such violence against women and adequately providing for sanctions for the failure to do so."



### 3 ONE OF THE MOST EXTREME FORMS OF GENDER-BASED VIOLENCE IS THE GENDER-RELATED KILLING OF WOMEN AND GIRLS

*Gender-related killings are killings that have as a main motive or cause gender-based discrimination.*

The most obvious examples of gender-related killings include, inter alia, femicide, rape-murder, intimate-partner violence escalating into murder, dowry deaths, crimes committed in the name of so-called honour and deaths arising from harmful practices or neglect. The Human Rights Committee considers femicide "an extreme form of gender-based violence... that is a particularly grave form of assault on the right to life."<sup>23</sup>

*Stopping gender-motivated killings requires a multifaceted approach including legal, administrative, policy and other measures to address the social, political, economic, cultural and*



*other factors that perpetuate discrimination and violence.*

The Special Rapporteur on violence against women has recommended a holistic approach to preventing gender-related killings in all the measures taken by States to investigate and sanction violence, in particular in designing, implementing and evaluating legislation and policies. Such an approach encompasses: promoting

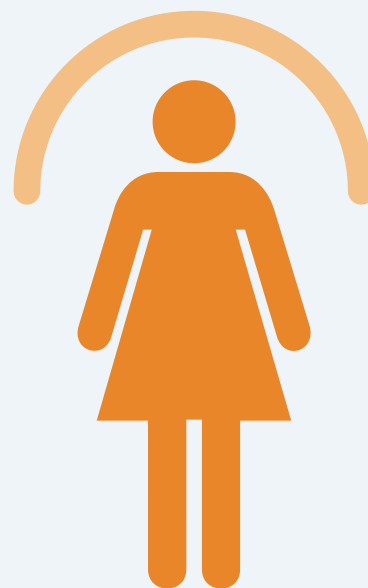
societal transformation, including the eradication of harmful stereotypes; developing information systems and good quality data on gender-motivated killings; ensuring adequate enforcement by police and the judiciary of civil remedies and criminal sanctions; and ensuring an adequate provision of legal, social and health services for women victims of violence.<sup>24</sup>

## STATES HAVE OBLIGATIONS TO RESPECT, PROTECT AND FULFIL WOMEN'S RIGHT TO A LIFE FREE OF VIOLENCE

**RESPECT** State agents must refrain from committing acts of gender-based violence, including in custodial settings. States must also abstain from enacting and implementing laws and policies that allow forced sterilization or virginity testing, as well as laws sanctioning forced marriages.

**PROTECT** States must exercise due diligence in preventing, punishing and redressing gender-based violence committed by private parties. The UN General Assembly has called on States to investigate promptly and thoroughly all killings, including those motivated by the victim's sexual orientation or committed in the name of honour.<sup>25</sup>

**FULFIL** The obligation to fulfil requires the State to ensure an enabling environment where gender-based violence is prevented, and access to legal, health and social services is ensured in cases where violence does occur.



## NOTES

- 1 World Health Organization, Global plan of action to strengthen the role of the health system within a national multisectoral response to address interpersonal violence, in particular against women and girls, and against children (2016), p. 6.
- 2 World Health Organization, London School of Hygiene and Tropical Medicine, and South African Medical Research Council, Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence (2013), p. 22.
- 3 Article 4(c).
- 4 General Recommendation 35 (2017) on gender-based violence against women, updating general recommendation No. 19, para. 15.
- 5 General Recommendation 33 (2015) on women's access to justice, para. 8.
- 6 International Conference on Population and Development, Programme of Action (1994), para. 4(4)(e) and Principle 4.
- 7 Ibid., para. 4.9.
- 8 Fourth World Conference on Women, Platform for Action (1995), para. 96.
- 9 Commission on the Status of Women, Report on the fifty-seventh session, E/2013/27 - E/CN.6/2013/11 (2013), para. 22.
- 10 United Nations Secretary-General, In-depth study on all forms of violence against women, A/61/122/Add.1 (2006), para. 65.
- 11 General Recommendation 35, para. 19.
- 12 Ibid., para. 18.
- 13 Ibid., para. 12.
- 14 Ibid.
- 15 Concluding observations on South Africa, CEDAW/C/ZAF/CO/4 (2011), para. 39-40; Special Rapporteur on violence against women, its causes and consequences, A/HRC/14/22/Add.2 (2010), para. 38.
- 16 Committee on the Rights of Persons with Disabilities, General comment 3 (2016) on women and girls with disabilities, para. 32.
- 17 Ibid., para. 31.
- 18 Committee on the Elimination of Discrimination against Women, General Recommendation 26 (2008) on migrant women, paras. 19-20; Committee on the Protection of the Rights of all Migrant Workers and Members of their Families, General comment 1 (2011) on migrant domestic workers, para. 7.
- 19 Committee on the Elimination of Discrimination against Women, General Recommendation 35, para. 24 (b); General Recommendation 28 (2010) on core obligations of States Parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, para. 13; Special Rapporteur on violence against women, its causes and consequences, A/HRC/23/49 (2013).
- 20 General Recommendation 35, para. 24 (b); General Recommendation 19 (1992) on violence against women, para. 9.
- 21 Committee on Economic, Social and Cultural Rights, General Comment 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), para. 59. See also Committee on the Elimination of Discrimination against Women, General Recommendation 30 (2013) on women in conflict prevention, conflict and post-conflict situations, para. 9.
- 22 General Recommendation 35, para. 30.
- 23 General Comment 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, para. 61.
- 24 A/HRC/20/16 (2012), paras. 103-116.
- 25 United Nations General Assembly Resolution, A/RES/57/214 (2003) on Extrajudicial, summary or arbitrary executions, para. 6; A/RES/61/173 (2007), para. 5 (b); A/RES/65/208 (2011), para. 6(b).