

A. Key concepts




- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the core international human rights instrument for the protection and promotion of women's human rights. Although it has been widely ratified, the number of reservations entered by many countries limits its binding character in key areas of women's rights. Several other international human rights instruments have provisions on equality between men and women, and each emphasizes the right to non-discrimination. Regional standards, like the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), the Istanbul Convention against violence against women and domestic violence, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, complement the body of law protecting women's rights.
- Identifying and documenting discrimination, in all its forms, intersections and facets, is a key aspect of monitoring women's rights. The systematic collection and analysis of disaggregated information and data, including gender- and human rights-sensitive indicators, assist greatly in identifying discrimination and are therefore a fundamental methodological component of monitoring women's rights.
- Legislation, policies and practices that discriminate against women, de jure and/or de facto, and/or that fail to comply with international standards on women's human rights, remain a concern in many countries, as do regressive law reforms or policies that have an adverse impact on these rights. The ineffective implementation of laws and policies that protect women's rights is also a recurrent challenge. Field presences should closely monitor these areas.
- Discrimination and inequality can occur in different ways. Discrimination can occur directly, as when a law or policy restricts, prefers or unjustifiably distinguishes between certain groups: for instance, when it prohibits women from owning land or inheriting property. Laws, policies or programmes can also appear to be gender-neutral while in fact disproportionately affecting the enjoyment of their rights by women and girls, and thereby constituting indirect discrimination: an example would be a similar height requirement for women and men for a job, which women are less likely to fulfil.
- Discrimination and inequality are said to be de jure when the text of a law or policy contains discriminatory provisions, and de facto when the law or policy is discriminatory not in itself but its implementation, and its enforcement has a negative impact on women. De facto discrimination can also result from broader practices, such as, for example, culture, traditions, and stereotyping attitudes which deny women full equality and the enjoyment of their rights.
- The private sphere is an environment where a large number of women's human rights can be exercised or denied. Monitoring violations that are taking place in the private sphere is a key aspect of human rights work. It entails assessing whether and how States are fulfilling their obligation to protect women's rights and to exercise due diligence in preventing, investigating, punishing and redressing violations of these rights committed by non-State actors in the private sphere.
- The now considerable corpus of ground-breaking jurisprudence shows how one single court decision on an individual case can advance women's rights for an entire society. Positive change in particular areas can have a domino effect. Monitoring women's rights can make an important contribution to activating transformative change, and field presences should target their interventions at areas that can engender such change.
- Gender is different from sex. Sex refers to the biological differences between men and women, while gender means the socially constructed identities, attributes and roles assigned to men and women based on these biological differences. Oftentimes, this results in a hierarchical relationship, to the disadvantage of women.




B. Introduction

Monitoring women's rights is a vast area of work. This chapter does not cover all aspects of women's and girls'¹ human rights or related violations.² With the Convention on the Elimination of All Forms of Discrimination against Women as the specific legal reference, the chapter offers some pointers on the "what" and "how" of monitoring women's rights in selected areas. This is a new chapter, added since the 2001 edition of the Manual.

C. Monitoring methodology – special features


This section outlines some key methodological aspects that are particularly relevant to monitoring women's rights. It builds on the guidance provided in Chapter 15 on *Integrating gender into human rights monitoring* , which is equally relevant.

1 Partners and sources of information

Field presences need support from a functioning, reliable network of actors with the relevant expertise and mandate to monitor women's rights effectively. There is a great variety of such actors, ranging from national mechanisms for the advancement of women to community-based, grass-roots associations, United Nations entities (e.g., UN Women, UNICEF, UNFPA, WHO and UNESCO), human rights mechanisms on women's rights at the international, regional and national levels, organizations managing shelters for survivors of human trafficking or violence against women, police units specialized in investigating sexual violence, women human rights defenders (WHRDs), academic institutions researching women's rights, health workers, journalists, gender units within executive bodies, national observatories on gender equality, platforms and networks working on women's rights-related issues, and many more in addition to field presences' "standard" sources, which often also provide good-quality information on women's rights (for guidance on the use of the terms "victims" and "survivors", see Chapter 12 on *Trauma and self-care* , p. 5). In each area of women's human rights that field presences monitor, they need to identify and engage with relevant stakeholders, who can be sources of information, partners in monitoring activities or duty bearers. They can be institutions and collective entities or individuals (e.g., midwives, social workers, women's caucuses in parliaments, or women's rights activists).


2 Challenges

When monitoring women's human rights, human rights officers (HROs) face a number of challenges, some of which are specific to women while others are more general. They include:

- Locating, accessing and approaching women affected by violations and, in some contexts, women in general. This may entail particular challenges in the case of groups of women facing multiple or intersecting forms of discrimination, or when contact may be difficult because of cultural barriers, or when these survivors live in remote areas.
- The under-reporting of some violations, such as sexual violence, owing to fear of retaliation or the social stigma attached to victims of such violations (for guidance on the use of "victims" and "survivors", see Chapter 12 on *Trauma and self-care* , p. 5).

¹ References to women in this chapter are intended to cover girls too, unless otherwise stated.

² For an overview of women's rights, see www.ohchr.org/Documents/Events/WHRD/WomenRightsAreHR.pdf.

- Interviewing victims of violations, especially when social stigma is attached to them.
- Inability of victims of sexual violence to identify their perpetrators, especially in the context of armed conflict and following trauma.
- In some contexts, women interviewed by HROs tend to talk about violations affecting others (e.g., family members or the community) and do not report violations concerning themselves unless prompted with specific questions about their own situation.
- Monitoring violations that take place in the private sphere.
- Monitoring without endangering or exposing witnesses or sources, their families or communities to the risk of harm or retaliation, and without exposing the victim to further stigmatization and isolation.
- As in all cases where HROs interact with survivors of trauma, the risk – whilst gathering information, and in particular while interviewing – of re-traumatizing women who have survived a traumatic experience (see Chapter 12 on *Trauma and self-care* .
- Lack of services to which to refer victims of all forms of gender-based violence, including sexual violence – such as legal assistance, shelters, psycho-social support, economic assistance, sexual and reproductive health care and other rehabilitation services.
- Little or no access to gender-sensitive judicial or non-judicial remedies for women victims of human rights violations.
- Misunderstandings and complications in relationships with organizations working in this field, which may cut off or limit collaboration with field presences (e.g., humanitarian organizations providing health care and support for survivors of sexual violence).
- Little or no reliable information regarding the situation with women’s rights.
- HROs’ limited knowledge of women’s rights issues and gender concepts; their own gender stereotypes, biases, perceptions and behaviours (e.g., discomfort, embarrassment, unfamiliarity), particularly when monitoring certain types of violations that disproportionately affect women (e.g., sexual and reproductive health and rights, sexual and other gender-based violence), and their minimization of violations taking place in the private sphere, or violations against girls.
- When prioritizing the violations to monitor, field presences may focus more on violations primarily affecting individual men as opposed to those impacting on large numbers of women (e.g., arbitrary detention, torture, summary executions and violations of freedom of expression, as opposed to forced displacement or violations of the right to an adequate standard of living, in its different ramifications).


In many contexts, “gender” is often taken to mean “women”. For example, the first thing that comes to mind for many when we talk about “gender integration or mainstreaming” is to make sure the rights of women are protected. This is of course a critical aspect of gender integration. However, we should not forget gender-related violations of the rights of LGBTI people or gender-specific violations that affect men (e.g., gender stereotypes regarding men).



Afghanistan

In the most traditional and conservative areas of the south and south-east, it was particularly challenging for HROs to make contact with women victims of violations, or women generally, owing to the high level of segregation between men and women and women’s limited participation in public life. In order to gain access to women, HROs established contact with a range of community-based groups, such as women’s shuras, women candidates in provincial elections and women professionals in the education and health sectors.



Most of these challenges are particularly acute when monitoring violations involving **violence against women** or other particular forms of discrimination that impact on women's autonomy and their personal and intimate spheres. Talking about violence against women in most societies is considered taboo, as it implies discussing violations that may involve a sexual element and may confront social constructs regarding sexuality and power relations. For the survivor, the act of violence, particularly if sexual, invades and violates an intimate part of the body, leaving profound psychological consequences which, compounded by social constructs, may have a humiliating and stigmatizing effect, or may even lead the survivor to believe herself responsible for what happened. HROs must apply the "do no harm" principle, assess security risks, follow recommendations for conduct when interacting with survivors of trauma, and take into account the advice of organizations working with them (see chapters on *Basic principles of human rights monitoring*, *Trauma and self-care* and *Protection of victims, witnesses and other cooperating persons* .

HROs should avoid **making wrong assumptions**, such as:

- Identifying all women as victims.
- Labelling all women as a "group" that is inherently "vulnerable" or "marginalized" in its entirety and in all circumstances. Women are rights holders and active members of society. Those in positions of authority are also part of the range of duty bearers that may potentially constitute strong, reliable allies in certain circumstances. Women constitute half of the local, national and world population.
- Limiting the monitoring and analysis of women's rights violations to cases of violence against women only. Addressing women's rights violations in silos instead of adopting an intersecting approach.

It is important to take into account women's various roles and diverse experiences, and to be aware of the differentiated protection needs of different groups of women – and, when applicable, their families, and not to ignore intersectionality or regard women as a homogeneous "group".

Otherwise, the monitoring of women's rights is liable to be confined to aspects that do not correspond to the diverse realities of women's lives, and to result in the perpetuation of narratives whereby women's identity and role in society is limited to reproduction, the domestic sphere and being "female victims of (sexual) violence" or "vulnerable beings in need of protection by men".

HROs should be aware of these risks: they should objectively analyse their own stereotypes, biases and approach to this area of work, and should act in a way that empowers women rights holders rather than relegating them to the role of victims in need of sympathy and assistance. This can be done, inter alia, by:

- Using gender-sensitive and empowering language in interactions and reporting. This language evolves over time and is context-specific. In using empowering language, HROs should also be aware of legally correct terminology, while also being receptive to the terminology women rights holders consider appropriate and preferable.
- As this chapter suggests, monitoring a broader range of women's rights violations (beyond violence against women), and fully integrating a gender perspective throughout their monitoring and reporting.
- Consulting, partnering and engaging extensively with women, women's organizations and WHRDs, including at community level.
- Undertaking work to counter harmful gender stereotypes (see below in this chapter).

Gender-sensitive, empowering language

Gender-sensitive reporting is not only about the substance of the message: it is also about the language used in interviewing and drafting. Over time, careful use of language can affect people's consciousness positively or negatively, in the same way as the media can be proactive in changing perceptions about people in a society by using new terms, or explaining why a term has become negative and not acceptable to a certain group of people.

- Avoid using "man" as a generic noun
E.g., man, mankind → people, humanity, human beings
manpower → staff, labour, workforce, employees
- Avoid associating men and women with certain professions
E.g., chairman → chairperson, president
housewife → homemaker
policeman → police officer
- Avoid the systematic use of "women and children" as a vulnerable group.
(As in "vulnerable groups such as women and children, the disabled, HIV-positive", etc.)

3 Disaggregated data and information

Discrimination curtails the enjoyment of all women's human rights, and capturing discrimination in all its facets is a key aspect of monitoring them, from the right to quality education to meaningful political and public participation, full participation in economic, social and cultural life, health, access to justice, and so on. Systematically collecting and analysing disaggregated information and data are key to identifying and documenting discrimination, and they need to be a core methodological aspect of monitoring women's rights.

Data should therefore be disaggregated by sex and gender³ in addition to other variables that may reveal multiple forms or additional facets of discrimination against women. These grounds can include age, religion, nationality, race, ethnicity, geographical location, economic status, sexual orientation, gender identity, health status, disability, refugee or migrant status, political affiliation, etc.⁴

Collecting and analysing disaggregated information does not mean that HROs themselves will have to collect it all. Much of this data is in fact collected by other actors but, when reliable, can and should be used in the human rights analysis of field presences.⁵ Where limited or no reliable information is available, field presences could liaise with relevant actors to foster the establishment of mechanisms or tools for collecting it.

3 When capturing data on sex, let people define this themselves. Allow for the possibility that they may not identify as male or female and/or may be intersex. A person's identity, including their name or appearance, may be different from that indicated on their papers. While most transgender and intersex people do identify as men or women, some do not. If using categories, include "other" as an option – this also reflects the fact that several countries have legislation that expressly recognises other possibilities.

4 See OHCHR, *A Human Rights-based Approach to Data – Guidance Note to Data Collection and Disaggregation*.

5 For instance, Demographic Health Surveys, Multiple Cluster Indicator Surveys (MICS), CCA/UNDAF reports, UNDP Human Development Reports, National Census.



Disaggregated data should also be collected on issues only or predominantly affecting women, such as those pertaining to sexual and reproductive health and rights.

There is also disaggregated information that HROs collect directly – typically when interviewing victims and witnesses of human rights violations – using forms and recording information in databases that capture elements such as the sex, gender, age, ethnicity and religion of potential victims, witnesses, sources of information and alleged perpetrators. Regular analysis of this simple information (e.g., over a given period, in a given region, with regard to specific violations, etc.) can already provide the field presence with a better understanding of how monitoring is being conducted and of its direction and impact. For instance, if a large majority of the victims of violations monitored by a field presence are men, is it because women are not recognized or registered by HROs as victims? Or is it because HROs do not have access to women victims of these same violations? Or because such data correctly reflects the reality, and the field presence therefore focuses primarily on violations mainly affecting men? Is this the right direction? Can HROs increase their outreach, collect more information concerning the situation of women, or deepen their factual and legal analysis?



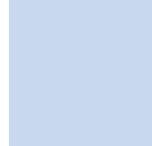
Violence and discriminatory practices against lesbian, bisexual, transgender and intersex women

In 2011 and 2015, the United Nations High Commissioner for Human Rights produced reports on violence and discrimination against individuals based on their sexual orientation and gender identity.⁶ One year later, in June 2016, the Human Rights Council created the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (SOGI).⁷ In his first report to the Human Rights Council,⁸ the Independent Expert highlighted that there are many social, economic, cultural, legal and political factors in the environment that breeds violence and discrimination. Acts of violence and discrimination include hate-motivated, targeted and so-called “honour” killings, homophobic and transphobic hatred and attacks, sexual violence, mutilations, torture and ill-treatment, as well as arbitrary arrests, detention, abductions, harassment and bullying. Laws and policies that criminalize consensual same-sex relations, and gender identity or expression, are part of the background environment that leads to violence and discrimination. Other laws and policies of a more indirect nature are also used to target individuals on the basis of their sexual orientation and gender identity. They include laws based on public decency, public health and security, such as “crimes against the order of nature” or “debauchery”, or laws prohibiting cross-dressing, “imitating the opposite sex”, or those criminalizing sex work or “vagrancy”, which are sometimes used to target and prosecute transgender women. Based on their sexual orientation or gender identity, individuals also face discrimination in employment, health care, education, housing, social protection and legal gender recognition, together with restrictions on the rights to freedom of expression, association and assembly.

⁶ A/HRC/19/41, A/HRC/29/23.

⁷ More information on the Independent Expert on SOGI is available at: www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/Index.aspx.

⁸ A/HRC/35/36.



In many cases, lesbian, bisexual, transgender and intersex women are especially at risk owing to multiple, intersecting and aggravated forms of discrimination and entrenched gender inequalities that restrict autonomy in decision-making about gender identity, sexuality, reproduction and family life. They are subjected to particular violations, including so-called “honour” killings, and to sexual violence including rape, forced marriage and forced pregnancy, often as forms of punishment for being seen to transgress social norms around gender, sexuality and identity. They also face other forms of discrimination, like being excluded from the family home, disinherited, prevented from going to school, forced into “conversion” therapy and psychiatric institutions, forced to relinquish children, punished for activist work and subjected to attacks on their personal reputation.

As with other forms of violence and discrimination, United Nations mechanisms have highlighted the link between the violence and discrimination against LGBT people in the private sphere and the violence and discriminatory laws and practices directed at them in the public sphere.⁹

4 Referral

Referral should be a part of monitoring women’s rights. Whenever appropriate, and with the informed consent of the individuals concerned, for the people they come into contact with HROs should facilitate access to structures and organizations that can provide psycho-social support, legal aid, shelter, physical protection, health care services, etc. This entails mapping existing referral pathways or networks, and establishing contacts with these organizations and services in advance so as to be in a position to advise on how to access them and to facilitate contact when needed. Coordination with other actors is thus essential to ensuring a wider availability of services, but also to ensuring that a referral respects confidentiality and protects the security of the individuals assisted. For instance, HROs can forge good links with special police units responsible for investigating cases of violence against women, check whether they have and use Standard Operating Procedures (SoPs) for the referral of victims to appropriate services, and assist in the adoption, dissemination and implementation of these SOPs.

D. Human rights standards: “Women’s rights are human rights!”

“Women’s rights are human rights” is a historic slogan of the women’s rights movement. It encapsulates the notion that women’s rights are an inalienable, integral and indivisible part of universal human rights. This principle was recognized by the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in Vienna in 1993. Discrimination based on sex is prohibited under almost every human rights treaty. In addition, there are treaties and expert bodies specifically dedicated to the full realization of women’s human rights.

The **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** is the core international human rights instrument for the protection of women’s human rights. It requires States parties to:

- Eliminate violations of women’s rights whether committed by the State, private persons, groups or organizations;

⁹ For OHCHR resources on the rights of LGBT and intersex people, see: www.ohchr.org/EN/Issues/Discrimination/Pages/LGBT.aspx.



- Take measures to modify social and cultural patterns of conduct based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women;
- Take temporary special measures to end discrimination against women until substantive gender equality is reached; and
- Eliminate discrimination against women in areas such as political and public life; education; employment; health care, including sexual and reproductive rights; land, property and housing; nationality laws; marriage and family life.

The Convention has been ratified by over 90 per cent of United Nations Member States. However, it is also the Convention with the highest number of reservations.



Reservations to CEDAW

While the Convention on the Elimination of All Forms of Discrimination against Women is one of the most widely ratified human rights treaties, the number of reservations entered by many countries, some of which exclude the application of key provisions, is a major obstacle to the protection of women's human rights. Several States part to the Convention have entered reservations to particular articles on the grounds that their national law, tradition, religion or culture are not congruent with Convention principles, and they purport to justify the reservation on that basis.

Of particular concern are reservations to articles 2 (core obligations) and 16 (equality in marriage and family matters). The Committee on the Elimination of Discrimination against Women has repeatedly noted with concern the extent of these reservations, which it considers invalid because they are incompatible with the object and purpose of the Convention. It has consistently called upon these States parties to withdraw their reservations, and as a result a number of them have done so, either partially or in full.

Other instruments for the protection of women's human rights include the following:

- Both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights have articles prohibiting discrimination based on, inter alia, sex, in the realization of the rights recognized in the Covenants, and upholding equality between women and men in the enjoyment of those rights.
- The Convention on the Rights of Persons with Disabilities contains a provision explicitly guaranteeing women and girls with disabilities the full enjoyment of their rights without discrimination (article 6). The Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, both provide for the application of the rights set out in the Conventions without discrimination based on sex or on other grounds (articles 2 and 1 respectively).
- The Optional Protocol to the Convention on the Elimination of Discrimination against Women provides for its Committee to consider complaints directed against its States parties and submitted by individuals alleging violations of their rights under the Convention. The Protocol also enables the Committee to initiate inquiries into situations of grave or systematic violations of women's rights by States parties that have not opted out from this procedure.¹⁰

¹⁰ For information on United Nations procedures to deal with women's rights violations, see www.ohchr.org and specifically www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Differentproceduresdealingwithwomen.aspx.

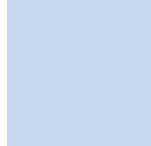
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (also known as the Palermo Protocol), supplements the Convention against Transnational Organized Crime.
- The Conventions of the International Labour Organization that protect women workers' rights. In particular: Convention No. 111 on discrimination in employment and occupation; Convention No. 100 on equal remuneration; Convention No. 183 on maternity protection; and Convention No. 156 on workers with family responsibilities.
- Several regional standards complement the international body of law protecting women's rights. They include: the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (also known as the Convention Belém do Para), the Council of Europe Convention on preventing and combating violence against women and domestic violence (also known as the Istanbul Convention), and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (also known as the Maputo Protocol).

Relevant standards and policies are, among others:

- The Beijing Declaration and Platform for Action, an agenda for women's empowerment which is regarded as the key global policy document on gender equality. The Commission on the Status of Women (CSW) plays a leading role in monitoring and reviewing progress and problems in its implementation.
- The **Declaration on the Elimination of Violence against Women (DEVAW)**. It defines violence against women and the steps to eliminate it.
- Security Council resolutions on the role of **women in peace and security** and **on conflict-related sexual violence**, notably Security Council resolutions 1325, 1820, 1888, 1889, 1960, 2106 and 2122.
- The United Nations Declaration on Human Rights Defenders, A/RES/53/144 (1998) and its follow-up adoption of the first resolution on WHRDs, A/RES/68/181 (2013).
- The International Conference on Population and Development (ICPD) and Programme of Action articulated a bold vision for the relationships between population, development and individual well-being.
- The 2030 Agenda for Sustainable Development, where gender equality is articulated in particular in Goal 5 and is a crosscutting issue in all the Sustainable Development Goals.

As with other human rights, the obligations of States in relation to women's human rights include:

- Obligations to **respect** women's rights, including by refraining from adopting discriminatory laws, policies or practices and from interfering with women's full enjoyment of their rights.
- Obligations to **protect** women's rights and exercise **due diligence** in preventing and redressing harmful action by non-State actors, such as private entities.
- Obligations to **fulfil** women's rights, taking positive steps to fulfil their human rights and address gender inequality, including through the adoption of **temporary special measures** (see text box below).



Temporary special measures

Article 4.1 of the Convention on the Elimination of Discrimination against Women provides that, to comply with their obligations to fulfil women's human rights, States parties should take temporary special measures (TSMs). TSMs aim at accelerating the equal participation of women in the political, economic, social, cultural, civil and all other fields. According to the Convention's general recommendation No. 25 (2004), the purpose of TSMs is to effect the structural, social and cultural changes necessary to correct past and current forms and effects of discrimination against women, and to provide them with compensation. These measures are of a temporary nature, and should be discontinued when the objectives of equality of opportunity and treatment have been achieved.

The adoption of TSMs stems from the observation that the prohibition of discrimination has not in itself proved sufficient to achieve gender equality. TSMs are necessary to put everyone on an equal footing, especially where socio-economic inequalities have arisen in a history of the oppression of one group by another.

Examples of TSMs include:

- Setting targets, goals or quotas for women's participation in activities or sectors, or at levels, from which they have previously been excluded and in which they are still under-represented (e.g., in parliaments, on executive boards, in managerial positions);
- Promoting girls' and women's access to wider opportunities in education, vocational training and employment in non-traditional sectors and at higher levels of responsibility (e.g., grants and fellowships for girls and women, mentoring and networking programmes);
- Fast-track career measures;
- Incentives for employers to recruit and promote women, especially in sectors or to positions where they are under-represented;
- Measures aimed at promoting the active participation of women in decision-making bodies;
- Fostering greater sharing of occupational, family and social responsibilities between men and women.

Monitoring activities relating to TSMs could include:

- Identifying equality gaps that could be remedied by TSMs;
- Monitoring the implementation and impact of TSMs;
- Collecting disaggregated data on beneficiaries of TSMs to identify possible patterns of exclusion;
- Reporting information on TSMs to relevant human rights mechanisms.

E. Discrimination against women

Article 1 of the Convention on the Elimination of Discrimination against Women defines such discrimination as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” Several other international instruments prohibit discrimination on the basis of sex.¹¹

Non-discrimination is a **fundamental human rights principle** that cuts across all sets of rights (e.g., discrimination against girls in accessing primary and secondary education; the unequal remuneration of women workers for work of equal value; the denial of girls’ access to sexual and reproductive health services and information; laws limiting the possibility for women to transmit or acquire nationality as compared to men; gender stereotypes leading to disproportionate and unpaid domestic and caregiving responsibilities for women and girls; the unequal participation of women in political and public life).

Table 1. Types of discrimination against women

Type of discrimination against women	What it is	Monitoring tips
Direct discrimination	Differentiated treatment of women and men which is based explicitly on the grounds of sex and is not justified by objective, reasonable grounds (e.g., polygamy, prohibiting women from driving, different legal age of marriage for girls and boys).	Often established in laws, regulations and policies, direct discrimination can be detected by monitoring legislation and different types of regulations (e.g., administrative rules, judicial procedures).
Indirect discrimination	A requirement or condition that appears neutral but results in unequal treatment of women or has an unequal effect when implemented (e.g., when women are disadvantaged compared to men in the enjoyment of a pension scheme that excludes, for instance, part-time workers, most of whom are often women).	Indirect discrimination often becomes evident when notions based on stereotypes are encapsulated in laws and policies. When you observe a disparity between women and men in relation to their enjoyment of rights (e.g., low pension coverage), analyse it to see whether a certain gender stereotype is preventing women from benefiting from relevant laws and policies. For example, look at assumptions about who is the “breadwinner”, the “head of household”, and who cares for children.


¹¹ Article 2 of the Universal Declaration of Human Rights; article 2 of the International Covenant on Civil and Political Rights; article 2 of the International Covenant on Economic, Social and Cultural Rights; article 1 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; article 2 of the Convention on the Rights of the Child; article 6 of the Convention on the Rights of Persons with Disabilities.



Type of discrimination against women	What it is	Monitoring tips
		<p>In all the situations you monitor, actively consider the differential situation, experiences, views and needs of women and girls. What human rights challenges do they face compared to men and boys? Are differences due to discrimination, inequality or gender stereotypes?</p>
<p>Discrimination in law (de jure)</p>	<p>Direct or indirect discrimination established in laws (e.g., laws that discriminate against women in the areas of inheritance or the transmission and acquisition of nationality; laws forbidding women – or limiting their capacity – to own or manage property, or that assign control over marital property to the male spouse; discriminatory laws that prohibit health services only women require; laws on adultery; laws excluding women from serving as judges; laws that have the effect of being detrimental to women, such as those on lending schemes or other economic incentives that may be inaccessible to women because of their disproportionate representation among those living in poverty; regulations on accessing credit that require home ownership as collateral for loans (de facto excluding women).</p>	<p>Discriminatory laws can be found in all areas. Key branches of law to monitor include: constitutions, criminal law, family and private law, labour law, health law, electoral law, personal status law, the civil code, nationality law.</p>
<p>Discrimination in practice (de facto)</p>	<p>This refers to both unequal opportunities and unequal results. Opportunities for men and women to enjoy human rights, intended as the broad range of conditions experienced by women and men that make their environment conducive (or not) to achieving (or not) equality of results. In the areas of housing and property, for instance, the laws of many countries provide for co-ownership with the agreement of both spouses. In practice, only a small proportion of well-educated, often urban people take the active steps needed to register as co-owners. Most of the time, women rarely acquire title, and even when they have it, many find it difficult to gain control over the asset.</p>	<p>Look at opportunities and results in practice. For instance, do girls in a given region complete primary education to the same extent as boys? Do women have the same opportunities as men to access employment? Are women de facto excluded from certain health services, or from property? Are women candidates given the same opportunities to campaign for elections as men candidates?</p>

Type of discrimination against women	What it is	Monitoring tips
Intersecting forms of discrimination	<p>Several grounds of discrimination interacting concurrently (e.g., forced sterilization of a woman with a disability).</p> <p>The accumulation of discrimination on more than one ground (e.g., gender, age, race, ethnicity, migrant status, disability, HIV/AIDS status, sexual orientation, gender identity, religion, etc.).</p>	<p>Collect disaggregated information and data on the basis of several grounds (e.g., sex, age, rural/urban, ethnicity, disability, migrant or refugee status, HIV/AIDS status, sexual orientation, gender identity, religion) and analyse the interplay of different grounds of discrimination (intersectionality). Some discrimination may target only specific groups of women.</p>

F. Areas of monitoring

The substantive areas discussed in this chapter do not cover the entire spectrum of women's human rights, but only some segments where field presences could focus their monitoring activities. Other thematic chapters of the Manual also deal with women under their topics, such as monitoring women in detention, which is covered by Chapter 21 on *Visiting places of detention* .

1 Legislation

Monitoring work on legislation and women's human rights falls into two broad categories:

- a. Monitoring the legal framework and law reform processes with a view to ensuring conformity with international and regional standards and norms on women's rights; and
- b. Monitoring the implementation of legislation on women's rights.

a. A compliant legal framework

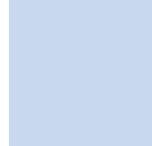
Legislation that does not comply with international standards on women's human rights is a persistent concern in many countries and in all regions. It requires constant attention from field presences to monitor legal developments and provide advisory services and, in addition, to advocate for a human rights-compliant legal framework and for rights-based processes of law development and law reforms.

Legislation that discriminates against women can exist in all branches of law, so a comprehensive "scanning" of national legislation is required in order to identify problematic areas for women's rights, and tackle them. The advice of actors with relevant expertise is a valuable support in performing this task. Useful references in this regard may be found in recommendations, studies and reports by Special Procedures mandate holders, concluding observations or decisions by treaty bodies, recommendations from the Universal Periodic Review (UPR), reviews and reports by regional human rights mechanisms and advice from regional gender advisors, where available.



In a non-comprehensive list, some of the recurrent problems in national legal frameworks include:

- In the domestic legal system of countries that have ratified the Convention on the Elimination of Discrimination against Women, lack of enabling legislation providing for the direct applicability of the provisions and standards set out in the Convention.
- Lack of, or inadequate, legislation prohibiting discrimination based on a comprehensive definition of discrimination against women in accordance with article 1 of the Convention (e.g., legal systems based on the principles of harmony and complementarity between men and women, as opposed to equal rights for women and men; restrictive definitions of discrimination).
- Inadequate legislation on maternity leave or parental leave, different retirement ages for women and men, discriminatory treatment with regard to pensions and other work-related benefits.
- Legislation requiring spousal consent for married women to access employment or certain services, including health services.
- Discriminatory laws on the acquisition and transmission of nationality.
- Discriminatory provisions in relation to housing, land and property rights, inheritance and succession.
- Limitations on the legal capacity of women compared to men.
- Discrimination in (and a lack of gender-sensitive) procedural laws and sentencing (e.g., the testimony of women counts for less than that of men).
- Discriminatory laws in relation to marriage, the marital power of the husband (e.g., in allowing their wives to travel, work or receive health treatment – or not), divorce, the custody of children, legal age for marriage, inheritance.
- Laws recognising and permitting harmful practices, such as polygamy, female genital mutilation, child and forced marriage, virginity testing, the prohibition of abortion in all circumstances, etc.
- Laws concerning honour killings, including those envisaging mild sentences.
- Laws restricting women's freedom of movement.
- Laws restricting access to sexual and reproductive health services and information, and the criminalization or prohibition of health services only women require, such as abortion.
- Laws criminalizing consensual sexual relations between adult women, legislation criminalizing sex work, and laws around adultery that disproportionately criminalize women;
- Laws criminalizing women sex workers and not their male partners;
- Laws criminalizing transgender women (e.g., laws on cross-dressing), and the absence of laws allowing for the recognition of their gender identity.
- Laws that perpetuate harmful gender stereotypes.



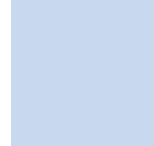
b. Monitoring the implementation of legislation on women's human rights

Most countries have adopted laws aimed specifically at advancing women's rights, prohibiting discrimination or preventing human rights violations against women. They include, for instance:

- Laws on the prohibition of discrimination.
- Laws on gender equality.
- Provisions in criminal codes relating to offences against the person, in particular physical and sexual assaults, rape (including marital rape), a definition of consent, etc.
- Specific laws on domestic violence.
- Specific laws on gender-based violence, including online.
- Laws prohibiting harmful practices, including laws that set a minimum age of 18 for marriage.
- Legislation against trafficking in persons.
- Laws on sexual harassment in the workplace.
- Laws on ensuring access to education of equal quality.
- Legislation ensuring access to sexual and reproductive health services, including contraception and abortion.
- Laws establishing quotas and other TSMs.
- Laws protecting and ensuring enabling environments for WHRDs.

Field presences can monitor how well such laws comply with international standards, and how they are implemented.

- Is the law known to those who should enforce it, and to rights holders? Is it justiciable? Is it applied by courts?
- Are the structures and mechanisms provided for by law in place? Do they function? Do rights holders use them?
- Does the State allocate the resources needed for implementing the law? Is a gender budgeting tool being employed?
- Is the law achieving its objectives? Should it be changed to achieve more, or to adapt to new circumstances?
- If law reform is envisaged, is there a risk that the amended law may be more regressive than the existing one? What are the forces at play, and how can they be influenced? Do all stakeholders participate adequately in the law reform process? Can the relevant United Nations Special Procedures mandate holders be involved, contributing advocacy and advice to make the law reform compliant with women's human rights?



Afghanistan

Monitoring the implementation of the Law on the Elimination of Violence against Women

The Human Rights Component of the United Nations Assistance Mission in Afghanistan (UNAMA) documented the implementation of the Afghan Law on the Elimination of Violence against Women (EVAW) in public reports. The report examining the implementation of the law between October 2012 and September 2013 found both progress and continuing gaps.

UNAMA observed that increases in the reporting and registration of incidents of violence against women by police and prosecutors did not lead to a similar increase in the use of the EVAW law to resolve cases by prosecutors or the courts, in particular through criminal prosecution. This suggested that the prosecutors and courts lacked sufficient resources to keep up with the increase in the number of complaints registered, and, as a result, dealt with more cases outside of the judicial process and/or deliberately decided to resolve cases through mediation. The data gathered by UNAMA also suggested that many Afghan women remained reluctant to approach police and prosecutors with their complaints. UNAMA's findings further indicated that the overall use of the EVAW law to indict and prosecute perpetrators of violence against women still remained low in the 16 provinces monitored.

The report found that the presence of specialized EVAW law units within eight prosecution offices appeared to have had a positive impact on the registration of violence-against-women cases in those eight provinces.

UNAMA highlighted that most incidents of violence against women still remained largely under-reported, especially in rural areas, owing to social norms and cultural restraints, discrimination against women (leading to a wider acceptance of violence against them), fear of social stigma or exclusion and, at times, fear of reprisals and threats to life.¹²

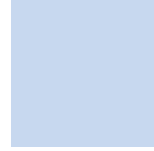
2 Gender stereotypes

Gender stereotyping refers to the practice of ascribing to an individual woman or man specific attributes, characteristics or roles by reason only of her or his membership of the social group of women or men. Gender stereotyping is wrongful when it results in a violation or violations of human rights and fundamental freedoms.¹³ An example of this is the failure to criminalize marital rape based on a societal perception of women as the sexual property of men.

Article 5 of the Convention on the Elimination of Discrimination against Women provides that "States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customs and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women." Other human rights treaties also require States Parties to address harmful stereotypes and the practice of stereotyping. For example, article 8 (1) (b) of the Convention on the Rights of Persons with Disabilities (CRPD) obligates States to combat stereotypes and stereotyping, including compounded stereotypes and stereotyping based on sex, age or disability.

¹² UNAMA, OHCHR, *A Way to Go: an Update on Implementation of the Law on Elimination of Violence against Women in Afghanistan*, Kabul, 2013. See also the text box on Afghanistan in the section on access to justice in this same chapter.

¹³ OHCHR, *Gender stereotyping as a human rights violation* (2013).



Gender stereotypes can amplify their harmful impact when compounded with other negative assumptions associated with other groups, such as women in custody or women in conflict with the law, women from minority or indigenous groups, women with disabilities, women from lower-caste groups or with lower economic status, migrant women, etc.

Some examples of stereotypes that can adversely affect women's enjoyment of human rights:

- The idea that “women are more nurturing than men” reinforces the notion that women should be responsible for most of the domestic chores and unpaid care. This can also lead to violations of women's human rights when translated into laws and practices that deprive them of educational and professional opportunities.
- Stereotypes, patriarchal attitudes and some religious beliefs and practices contribute to the persistence of violence against women and also to harmful practices including child and forced marriage, polygamy, and female genital mutilation.
- Stereotypical imaging of women and their objectification in the media, especially in advertising, reinforce notions that women are subordinate to men, and this leads to violations of women's rights in many areas of life.

Monitoring women's human rights also entails identifying and analysing gender stereotypes and how they impact on the enjoyment of rights. Key areas to monitor, because of their role in channelling and amplifying gender stereotypes, include:

- The media, the entertainment industry and advertising (e.g., is there sexist advertising? How are women and men portrayed in the media? How are women who engage in politics portrayed?).
- Education, school and university textbooks, curricula and teaching methods (e.g., do these change or perpetuate harmful gender stereotypes? Are the same courses and same-quality education on offer for both girls and boys?).
- Attitudes and behaviour of leaders and decision makers (e.g., what is the discourse of political leaders on women's participation in political life or, more broadly, on women's role in society?).
- Traditional or customary laws and practices relating to women's role in society.
- Culture, sports and science (e.g., can women influence the development of cultural life? Do they enjoy the freedom to refuse to participate in traditions and customs that infringe upon their dignity and rights? Can they criticize existing cultural norms or create new cultural meanings and norms of behaviour? Do women and girls have the same opportunities as men and boys to play sports, win prizes and receive media coverage for their achievements in sports?).
- The judiciary and the administration of justice and law enforcement (see section on access to justice).
- The workplace (are women equally represented in highly valued professional sectors? Are women represented in leadership positions? Is there sexual harassment? If so, is it addressed or tolerated?).
- The digital space and technology (e.g., monitor big-data algorithms and artificial intelligence systems that perpetuate gender stereotypes, cyberbullying and misogyny online, women with careers in science, technology, engineering and mathematics (STEM subjects), robots that are given a gender that reinforces gender stereotypes, e.g., cleaning robots resembling women, hyper-masculine combat robots).
- The private sphere (see below).



In addition to monitoring and reporting on existing gender stereotypes, field presences can also monitor the implementation of measures aimed at eliminating them. These may include:

- Awareness-raising measures taken in cooperation with civil society and women's organizations, the school system, the media, online platforms, traditional and religious leaders, law enforcement agencies, the judiciary, legal practitioners, police, parents.
- Monitoring mechanisms aimed at evaluating the progress made in eliminating existing gender stereotypes (this task can be performed by the national mechanism for the advancement of women, for instance, or the national human rights institution).
- Measures to promote the importance of care responsibilities and to support an equal share of family/domestic and employment responsibilities being taken by women and men.
- Measures to promote equal work opportunities and hiring practices, together with flexible work arrangements for both women and men.
- Education laws, policies and programmes, for both public and private schools, aimed at removing gender stereotypes from educational materials, incorporating human rights education into school curricula and introducing mandatory courses in teacher training programmes on ways to prevent schooling from reproducing gender inequality and gender segregation in the labour market.
- Prohibiting sexist advertisements and introducing mechanisms for monitoring them.
- Eliminating stereotypical images of women and their objectification in the media, especially in advertisements, including through codes of conduct, protocols and peer reviews within the media and advertising professions.
- Including modules on gender stereotyping in mandatory training curricula for judges, prosecutors and lawyers.

3 The private sphere

Family and community environments can inhibit as well as foster the enjoyment of human rights. The family and the community are the setting where gender stereotypes and roles first take shape and where discriminatory attitudes, practices and violence or, on the contrary, girls' and women's empowerment first manifest themselves and become reproduced in other spheres of women's lives, marking their existence. All too often discriminatory attitudes, practices and violence against women and other violations of women's rights are perpetrated or condoned within the private sphere.

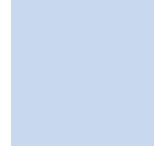
Violations perpetrated in the private sphere can include those mentioned in the non-exhaustive list below, whose purpose is to emphasize the variety of violations that can take place in the private sphere and multitude of private individuals who can commit them (the list of private individuals on the right is not meant to match to a corresponding violation on the left).

Table 2. Violations perpetrated in the private sphere

Violations perpetrated in the private sphere	Private individuals possibly involved in their perpetration or with a role (positive or negative) in committing, instigating, ordering, abetting, accepting or condoning related conduct
<ul style="list-style-type: none"> ■ Domestic violence, including physical, psychological and sexual violence ■ Child sexual abuse and exploitation ■ Harmful practices, including female genital mutilation, or child, early and forced marriage ■ Forced abortion, forced sterilization ■ Child labour, including the worst forms of child labour ■ Harmful gender stereotypes ■ Family decisions excluding girls from education, from adequate food or access to health care ■ Family decisions preventing or limiting women's and girls' ability to take decisions about their lives and hampering their right to work, be educated, marry (or not) and move as well as their participation in cultural, economic, political and social life ■ Gender-related killing, crimes committed in the name of so-called "honour", female infanticide, dowry-related murders, the killing of women accused of sorcery/witchcraft ■ Marital rape ■ Family or community decisions denying, limiting or requiring third-party consent for women's access to health care, including the denial of sexual and reproductive health goods, services and information ■ Violence or discriminatory practices against women and girls for not conforming to social norms, including in relation to sexual orientation and gender identity 	<ul style="list-style-type: none"> ■ Family members of victims, including extended family ■ People known to the victims ■ Community leaders ■ Traditional leaders ■ Religious leaders ■ Health personnel not affiliated with State health structures ■ Employers, including those in the informal economy

Even if the State is not complicit, harmful acts committed in the family and community sphere by private individuals and other non-State actors (see list in the table above) can engage State responsibility for human rights violations where there is evidence that the State failed in its **obligation to protect** victims from the harm suffered, by not acting with **due diligence** to prevent, investigate, prosecute, punish or provide for an effective gender-sensitive remedy for these acts.¹⁴ The obligation to protect also includes measures to protect persons from real and immediate risks of violence, where public officials know, or ought to know, that acts of violence are likely to be committed. Protective measures may include, for instance, issuing exclusion orders or detaining potential perpetrators.

¹⁴ See article 2 of CEDAW, general recommendation No. 28 of the CEDAW Committee, article 4 of the Declaration on the Elimination of Violence against Women and the reports on the due diligence standard by the Special Rapporteur on Violence against Women, its Causes and Consequences (A/66/215 and E/CN.4/2006/61).



Jurisprudence on due diligence and domestic violence

The **European Court of Human Rights** ruled that a State had violated the human rights of a woman and her daughter by failing to protect them against repeated aggression by the husband, which culminated in the woman's murder. In particular, in the case ***Opuz v. Turkey***¹⁵ the Court considered that the authorities had failed to respond adequately to the husband's initial assaults and death threats against the woman and, when on one occasion he stabbed the woman's daughter repeatedly, they only sentenced him to a fine. The Court also criticized the national law for preventing the prosecutor from pursuing charges of non-aggravated assault in the domestic sphere in cases where the victim did not file a criminal complaint. Finally, the Court considered it a violation that the prosecution had not been concluded more than six years after the murder, even though the perpetrator had confessed to the crime.

Goekce (deceased) v. Austria¹⁶ and ***Yildirim (deceased) v. Austria***¹⁷

The cases involved two women killed by their husbands after a series of violent incidents over a lengthy period of time, despite their requests for assistance, on a number of occasions, to law enforcement agencies and to the courts. Each claim was based on the argument that the national criminal justice system had not acted with **due diligence** to investigate and prosecute acts of violence or to protect the rights to life and personal security of the two women. The **Committee on the Elimination of Discrimination against Women** found violations of that Convention in each case. It emphasized that although Austria had developed a comprehensive system for addressing domestic violence, the political will reflected in the system needed to be upheld by state actors and due diligence obligations.

Lourdes da Silva Pimentel v. Brazil (due diligence in health care)¹⁸

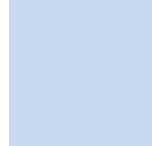
The case involved a woman of African descent who died, owing to complications resulting from her pregnancy, after a private health centre had failed to provide for appropriate, timely access to emergency obstetric care. The Committee noted that when the State outsources its medical services it is directly responsible for the action of private institutions. Furthermore, the State retains a duty to regulate and monitor private health-care institutions, in line with its due diligence obligation to take steps to ensure that the activities of private actors with regard to health policies and practices are appropriate. The Committee concluded that the State party had failed to fulfil its obligations under the Convention. It recommended making appropriate reparation and ensuring that private health-care facilities complied with the relevant national and international standards on reproductive health care.

15 Application No. 33401/02, judgment of 9 June 2009. The case is available on the database of the European Court at www.echr.coe.int.

16 Communication 5/2004, CEDAW/C/39/D/5/2005, views adopted 6 August 2007.

17 Communication 6/2005, CEDAW/C/39/D/6/2005, views adopted 6 August 2007.

18 Communication 17/2008, CEDAW/C/49/D/17/2008, views adopted 27 September 2011.




Monitoring violations perpetrated in the private sphere may pose different challenges.

Dilemmas on prioritizing (or not) this type of violation. Monitoring individual cases is resource-intensive. If undertaken, it needs to be done strategically, in good cooperation with other actors, and by managing expectations of what can realistically be achieved, in order to avoid the risk of being quickly flooded with individual cases and achieving limited results.

Human rights violations occurring in the private sphere tend to be unreported or under-reported. This is linked to: lack of effective protection measures and the risk of retaliation and further violations; stigmatization of the victims within their own communities; ineffective, unavailable, not gender-sensitive remedies for socio-cultural, structural, capacity, legal or other reasons; and the fact that victims may blame themselves or are reluctant or unable to challenge the socio-cultural norms entrenched in these types of violation.

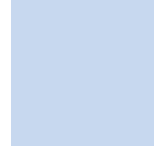
The **gender dimension** of violations perpetrated in the private sphere is striking. Many of these violations affect primarily women, and in large numbers. Yet it is still a common perception that violations perpetrated in the private sphere are of secondary importance. The Special Rapporteur on violence against women, its causes and consequences stated that this is also due to the public/private dichotomy in international human rights law, which traditionally looked at the public sphere – primarily experienced by men – as the one involving the human rights obligations of States, considering that the private sphere did not need State intervention. “Even in societies where there is seemingly a high level of gender equality, violence occurring in the private sphere continues to be regarded as a matter undeserving of public policy attention. [...] In many parts of the world, the struggle for human rights seems to end at one’s doorsteps. It is not uncommon even for women themselves to perceive violence in the private sphere as normal.”¹⁹

Paying attention to the gender dimension of violations perpetrated in the private sphere also means looking at violations perpetrated against boys and men, such as sexual exploitation or abuse and some forms of child labour, as well as gender stereotypes about their primary role as breadwinners and not care givers, which are often overlooked (see Chapter 27 on *Monitoring and protecting the human rights of children* .

In addition or as an alternative to monitoring individual cases, other methods can be effective. They include:

- Monitoring policies and legislation in these areas, and their implementation, including in judicial and administrative bodies (e.g., legislation criminalizing killings in the name of so-called “honour” and how it is applied in courts, with the consideration of mitigating circumstances, etc.; action plans to prevent and combat domestic violence or remove harmful practices), or the lack of such policies and legislation;
- Supporting sensitization and awareness-raising programmes at different levels and with multiple stakeholders, including online;
- Ensuring coordination and referral among the various actors that work on these themes from different perspectives (WHRDs, community leaders and health workers, and organizations providing legal aid, psycho-social assistance, medical care, vocational training, etc.);

¹⁹ E/CN.4/2006/61, paras. 59 and 60.



- Empowering and supporting actors involved in and committed to changing cultural and social attitudes, traditions and customs that perpetuate harmful practices.

Another challenge is linked to the unrealistic expectations that survivors and witnesses may have regarding what HROs can actually do for them. This could push HROs into getting involved in concrete aspects of cases that would come under the responsibility of State authorities, particularly in the law enforcement and judicial fields. This is a typical area where the boundaries between human rights monitoring and criminal investigations are liable to become blurred. HROs should explain clearly to all stakeholders that their role is to monitor the due diligence of State authorities in preventing, prosecuting and redressing human rights violations perpetrated in the private sphere – not to substitute for the State in investigating cases.

Harmful practices are persistent behaviours, attitudes and practices that are based on discrimination and justified by invoking socio-cultural or religious customs, values or practices. Often manifested in the form of gender-based violence, they affect women and girls disproportionately, and are a violation of their rights. Harmful practices are mostly perpetrated by private individuals.

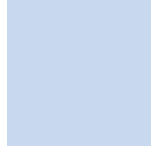
Examples of harmful practices are female genital mutilation, other forms of mutilation (facial scarring, amputation, burning or branding, acid attacks), child and forced marriage, the corporal punishment of children, practices and taboos associated with menstruation, pregnancy and childbirth, accusations of “witchcraft” and “exorcism”, ritual killings, the force-feeding of girls, virginity testing, female infanticide, the neglect of girls, with attitudes linked to the preference of sons over daughters, crimes in the name of so-called “honour”, dowry-related violence and violence against widows (including forcing widows to marry their deceased husband’s brother, a practice known as levirate), sexual violence to change a person’s real or perceived sexual orientation or gender identity, or subjecting women with disabilities to forced sterilization or abortion. Some of these practices violate several rights, such as the right to food, health, life and physical integrity.²⁰



West Africa and female genital mutilation

In several countries of West Africa where female genital mutilation is widespread, sensitization programmes run by United Nations agencies and NGOs targeted traditional and religious leaders as the agents of change. While traditional and religious leaders might have been expected to be the most resistant to change, most of those reached by the programmes were receptive to human rights arguments, understanding that culture and tradition could best be preserved first and foremost by ensuring people’s well-being and by replacing harmful practices with alternative rituals. The religious and traditional leaders targeted by these sensitization programmes embraced these arguments and championed them within their communities.

²⁰ See joint general recommendation No. 31 of the CEDAW Committee and general comment No. 18 of the Committee on the Rights of the Child on harmful practices. See also general comment No. 28 of the Human Rights Committee requiring States parties to ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women’s rights to equality before the law and to equal enjoyment of all Covenant rights.



i

Child, early and forced marriage

Child marriage is a marriage in which at least one of the parties is a child. Based on the Convention on the Rights of the Child, a child is any human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

Early marriage refers to marriages involving a person aged under 18 in countries where the age of majority is attained earlier or upon marriage. Early marriage can also include spouses who are older than 18 but are unable to consent to marriage owing to factors such as their level of physical, emotional, sexual or psychosocial development, or a lack of information regarding the person's life options.

Forced marriage refers to any marriage that occurs without the full and free consent of one or both parties, and/or where one or both parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure.²¹

Gender-related killings, such as so-called "honour crimes", are a manifestation of violence against women. "Honour" killings are mostly perpetrated by members of the victim's family, who enjoy impunity or receive reduced sentences justified by their having killed to defend their misconceived notion of "family honour". HROs should monitor incidents of honour killings where national authorities either approve of or support these acts, or where they extend a form of impunity to the perpetrators by giving tacit or covert support to the practice.

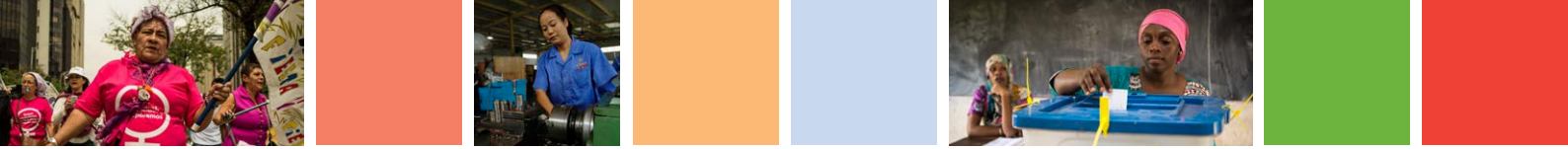


Investigating gender-based killings in Latin America

The OHCHR Regional Office in Central America and UN Women issued a *Latin American Model Protocol for the investigation of gender-related killings of women*.²² Gender-motivated killings are acts of extreme gender-based violence against women and, as such, constitute a serious violation of human rights. Based on a multi-disciplinary approach, the Model Protocol provides practical guidance for judicial practitioners on the investigation, prosecution, punishment and reparation of gender-related killings of women and on the protection of the rights of victims, survivors and their families. It makes recommendations on how to identify a gender-related killing, for instance, what to investigate and how investigate it in relation to the overall context, the crime scene, the perpetrators, the victims, the forms of violence used and any signs of previous violence, etc.

²¹ A/HRC/26/22, paras. 4-6.

²² Latin American model protocol for the investigation of gender-related killings of women (femicide-feminicide), 2014.

*i*

Equality in marriage and family relations

Article 16 of the Convention on the Elimination of Discrimination against Women establishes that States must eliminate de jure and de facto discrimination against women in all matters relating to marriage and family. This includes discrimination in economic aspects before entering marriage, during the relationship and upon its dissolution. For instance, States should ensure that women enjoy the right to own, acquire, manage, administer and enjoy property on an equal footing with men. The Committee considers that polygamy contravenes a woman's right to equality and should be prohibited. Equality in family matters also means that women are entitled to decide on the number and spacing of their children (article 16 (1) (e) of the Convention).²³

In several countries, marriage and family matters are regulated by personal status laws applicable to individuals on the basis of their religion or ethnicity. Very often, personal status laws, applicable in parallel with civil law, discriminate against women in matters such as inheritance, the custody of children, polygamy or passing on nationality, and women have no choice about the application of such laws.

4 Women's participation in political and public life

Women and men must enjoy equal opportunities to participate in the political and public life of their country.

Political and public life refers to the exercise of political power, particularly in the legislative, judicial, executive and administrative spheres, and it covers all aspects of public administration and the formulation and implementation of laws and policy at the international, national, regional and local levels. It includes aspects relating to social and political life, including participation in elections, local councils and parliaments and in the activities of organizations such as political parties, trade unions, professional organizations and associations, community-based organizations (including women's groups) and civil society organizations, in addition to social movements and public demonstrations.

Concerning the **right to vote and be voted for**, women frequently face more barriers than men in exercising their electoral rights. These include obstacles hindering their access to information about candidates and about political platforms, voting procedures and women's participation as aspiring politicians and candidates. Other factors that inhibit women's full and equal exercise of their right to vote may include: illiteracy; lack of, or limited, knowledge and understanding of political systems; financial constraints; displacement; traditions and social and cultural stereotypes discouraging women from exercising their right to vote and to be voted for; men's influence over or control of women's votes; lack of accessibility or security of polling stations; male domination in political parties' apparatus, etc. Women's enjoyment of the right to vote should not be subject to restrictions or conditions that do not apply to men or that have a disproportionate impact on women.

As candidates, women may experience gender-motivated political violence because their participation in the electoral process threatens the dominance of male power structures in the public domain. Gender-

²³ A/49/38.

specific barriers in this respect include preventing women from voting independently, deterring female candidates, and forcing women to withdraw either as candidates or after they have been elected.

Participation in public and political life is typically an area where States adopt or should adopt **temporary special measures**, including financially assisting and building the capacities of women candidates, parliamentarians and members of government, amending electoral procedures, developing campaigns directed at equal participation, setting numerical goals and quotas, and targeting women for appointment to public positions at all levels.


Gender stereotypes, including in the media, can confine women in political life to issues considered of limited strategic value, such as the environment, children and health, and exclude them from responsibility for issues such as finance, budgetary control and national defence. Harmful stereotypical views can discourage women from voting or otherwise engaging. Women portrayed in the media, for instance, are unlikely to be featured as authorities, experts or spokespersons. They may also face harassment, defamation campaigns and online and offline violence based on their gender.²⁴ The characterization of women in power is often somewhat stereotypical, with claims, for example, that their power is achieved at the expense of failure in private life. Competing demands of private and public life are presented as problematic for women but not for men.

Issues to monitor in this area include:

- The balance between women and men holding publicly elected positions, in national parliaments as well as in the executive and judiciary branches. Whenever possible, it is important to monitor women's representation disaggregated by race, age, religion, ethnicity and/or other grounds that may indicate patterns of exclusion and multiple or intersecting forms of discrimination.
- The implementation and impact of temporary special measures aimed at promoting women's participation (e.g., quotas), including those targeting women in disadvantaged situations (e.g., due to illiteracy, language, race, living in remote locations, etc.).
- Women's opportunity to represent their governments at the international level and to participate in the work of international organizations.
- The participation of women on a basis of equality with men in the formulation of government laws, policies and programmes.
- The participation and representation of women in political parties.
- The representation and meaningful participation of women in peace processes at all levels, and the inclusion of both provisions on gender equality and the specific experiences, views and needs of women in peace agreements.
- A portrayal of women in the media, in campaigns and in political discourse that may perpetuate gender stereotypes.
- The division of labour between men and women in the family, and the availability and accessibility of public services to support women who are active in public life.
- Women's enjoyment – in practice – of their right to hold public office, as reflected e.g., by the number of women exercising public functions at all levels of the State administration and by their level of decision-making power and responsibility.
- Women's access to, and the transparency of, recruitment processes for public office.

²⁴ OHCHR, *Promotion, protection and enjoyment of human rights on the Internet: ways to bridge the gender digital divide from a human rights perspective*, A/HRC/35/9 (2017).



- The extent to which public and private associations (e.g., trade unions, political parties, employers' and professional organizations, etc.) adopt strategies that encourage women's participation in their work, and the level of women's representation in those associations.
- The extent to which authorities consult with civil society actors, including women's organizations and WHRDs, and the impact of such consultations on government policy formulation and implementation, particularly in peacebuilding, nation-building, and economic growth and development contexts.
- Women's ability to exercise their rights to freedom of thought, conscience, religion, expression, movement and association as rights instrumental to their participation in public and political life (see the section on gender dimensions in Chapter 23 on *Monitoring human rights in the context of elections* ).²⁵



Sierra Leone

UNIPSIL-Human Rights took part in UNIPSIL's advocacy efforts, in collaboration with the government and other relevant stakeholders, to ensure a quota of 30 per cent for women's representation in decision-making bodies as well as in elected positions, as recommended by the Truth and Reconciliation Commission.



Nationality and participation

The Committee on the Elimination of Discrimination against Women, in its general recommendation 21 on equality in marriage and family relations, affirmed the importance of women's enjoyment, on a basis of equality with men, of their right under article 9 of the Convention to acquire, change or retain their **nationality**. The Committee noted that nationality is critical to full participation in society. Without status as nationals or citizens, women are deprived of the right to vote or to stand for public office. Nationality should not be removed because of marriage or the dissolution of marriage, or because a woman's husband or father has changed nationality.²⁶

5 Violence against women

Violence against women is a manifestation of discrimination against women.²⁷ It refers to any act of gender-based violence that results in, or is likely to result in, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.²⁸ It encompasses (but is not limited to) a range of different forms of violence, such as:

- Physical, sexual and psychological violence occurring in the family, including battering, the sexual abuse of women or girls in the household, dowry-related violence, marital rape, gender-related

²⁵ See also the 2013 report of the Working Group on the issue of discrimination against women in law and in practice, which focuses on political and public life, A/HRC/23/50.

²⁶ A/49/38.

²⁷ See general recommendation No. 19 of the CEDAW Committee.

²⁸ DEVAW, article 1.

killings, female genital mutilation and other harmful practices, forced pregnancy, and violence linked to exploitation.

- Physical, sexual and psychological violence occurring within the community, including rape; sexual abuse; sexual harassment and intimidation at work, in educational institutions and elsewhere; cyberbullying, blackmail, harassment and misogyny online; forced sterilization; sexual enslavement; forced nudity; trafficking in women and forced prostitution.
- Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.²⁹

i

Gender-based violence

“Gender-based violence” is an umbrella term used to distinguish common violence from violence that is directed against individuals or groups of individuals on the basis of their sex, gender identity or socially ascribed gender roles. Gender-based violence encompasses a range of forms of violence, such as physical and sexual violence, emotional and psychological violence, socio-economic violence and harmful practices. While women, men, boys and girls can all be victims of gender-based violence, the primary victims have been women and girls. Violence against lesbian, gay, bisexual, transgender and intersex people also often based on gender.

HROs should be aware of the multiplicity of forms and the intersecting nature of the violence and discrimination against women that may take place in a given society, in both the public and the private spheres. Monitoring violence against women would require gathering information on the following aspects:

- The political, social, cultural and economic contexts in which violence against women occurs, as well as the political, legal and societal reactions to such violence.
- The customs, traditions and religious values entrenched in society and regulating both the behaviour and the sexuality of women and girls.
- The legislation, regulations and procedures in place (or the lack thereof) to protect women against all forms of violence.
- Measures and policies in place to ensure timely, impartial and objective investigations into cases of violence against women and to promote survivors’ access to justice, including reparations.
- The structures responding to violence against women.
- The existence of support services for women who are victims of violence (e.g., specialized police services, health care, psycho-social assistance, legal aid, shelters, etc.) and their accessibility.
- Disaggregated statistical data on the incidence of all forms of violence against women, and on women victims of violence, including in terms of age, race, religion, disability, ethnicity, education, migrant status, sexual orientation, gender identity, economic conditions and other status, as relevant.
- Gaps in the protection of women from intersecting forms of discrimination and violence in areas such as economic exclusion, poverty, education, health, etc.

²⁹ DEVAW, article 2.



(a) Sexual violence

Sexual violence describes **acts of a sexual nature** perpetrated **without a person's consent**, often by force or coercion. Acts falling within the category include rape, attempted rape, the sexual abuse and exploitation of children, sexual slavery, forced marriage, forced pregnancy, forced abortion, forced sterilization, sexual mutilation, virginity testing, forced prostitution, and sexual harassment.

Sexual violence (against women) is not confined to the physical invasion of the human body through penetrative acts or direct physical assault. It includes all attacks against a person's intimate sexual sphere under circumstances that are coercive. This means that sexual violence also encompasses acts such as the touching of body parts, forced nudity, humiliating medical examinations, targeted injuries to breasts and the genital area, intentional infection with sexually transmitted diseases, and threats of a sexual nature.



Democratic Republic of the Congo

In April 2014, the Joint Human Rights Office (JHRO) of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) released a report analysing trends in sexual violence in the Democratic Republic of the Congo (DRC) from January 2010 to December 2013. It covers cases of sexual violence perpetrated by State agents and by non-State armed groups registered by the JHRO throughout the territory of the DRC. The report highlights the progress made by the Congolese authorities in prosecuting crimes of sexual violence, and it identifies obstacles in the fight against impunity for such crimes and makes recommendations for overcoming them. The report found that one of the main obstacles is that many victims do not report their case for fear of stigmatization and rejection by their families and communities. Many women prefer to resort to out-of-court settlements, which tend to be male-centred and generally ignore the needs of the victim. Moreover, many women cannot afford the legal fees and travel costs associated with formal legal proceedings. Impunity for crimes of sexual violence in the DRC was found to be further exacerbated by various other factors within the judicial system, such as the limited political and administrative will of Congolese authorities to prosecute such crimes, lack of financial, operational and human capacity, and endemic corruption. Additionally, the report found that the widespread problem of prison escapes throughout the country further contributes to impunity.³⁰

In addition to being a crime in most national jurisdictions and a serious violation of international human rights law, under certain circumstances sexual violence may also constitute an international crime – a war crime, a crime against humanity or a constituting act of genocide. It may therefore be a potential trigger to action by the International Criminal Court or, when considered a threat to international peace and security, the Security Council.³¹

³⁰ MONUSCO, OHCHR, *Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo*, April 2014. Available at: http://monusco.unmissions.org/LinkClick.aspx?fileticket=Gyh_dUBNGcs%3d&tabid=10770&mid=13783&language=en-US.

³¹ Security Council resolutions 1325 (2000), 1820 (2008), 1889 (2009) and 1960 (2010) provide the normative basis for the Security Council agenda on conflict-related sexual violence.

Where there are patterns of discrimination, including violence against women, the existence of **conflict** is likely to reinforce and exacerbate them. Sexual violence directed at women in times of conflict is often an extreme manifestation of the discrimination and abuse they face in peacetime. During conflict, such habitual patterns may take on a new dimension, leading to an increase in and proliferation of different forms of sexual violence. Understanding these dynamics will help HROs deployed in conflict and post-conflict situations to identify better what forms of sexual violence may be observed in a given society, what their causes and consequences are, and who are potentially the individuals/groups at the greatest risk of harm. It is also relevant for HROs to analyse the extent to which the incidence of sexual violence is aggravated by the conditions or consequences of a conflict (e.g., displacement, deprivation of liberty, lack of economic resources, collapse of social services including health care and education, etc.). Such analysis is essential for developing appropriate, effective strategies for preventing and protecting against sexual violence linked to conflict.



Conflict-related sexual violence

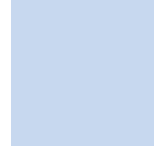
Within the framework of the Security Council, **conflict-related sexual violence** (CRSV) refers to incidents or patterns of sexual violence that can occur in conflict and post-conflict settings as well as in other situations of concern, such as during political strife and natural disasters. In this context, the nexus to the conflict is established whenever sexual violence is clearly used as a tactic or method of war, a tactic of terrorism, or through a temporal, geographical and/or causal link, as follows:

- *Tactic or method of war*: the act of sexual violence is linked with military or political objectives that serve, or are intended to serve, a strategic aim relating to the conflict.
- *Tactic of terrorism*: when systematically committed by violent extremists or terrorist groups; when deliberately used to spread terror; when used to finance the activities of terrorist groups; when used as a form of persecution targeting political, ethnic or religious groups; when advanced as a strategy to radicalize, recruit, retain or reward fighters; and when committed in pursuit of an ideology entailing control over women's bodies, sexuality or reproduction.
- *Temporality*: when there is proximity between the act of sexual violence and the period of conflict, within the time that covers the unstable situation that may lead to the escalation of a conflict, during armed conflict, during occupation, and in the aftermath of conflict but prior to the restoration of full State capacity and authority.
- *Geography/location*: when the act of sexual violence occurs in a conflict-affected area.
- *Causality*: when there is a relationship of cause and effect between the conflict and the act of sexual violence, in the sense that the existence of conflict played a substantial part in the perpetrator's ability or decision to commit the act of sexual violence.

Other elements that may assist HROs in identifying incidents of CRSV include: sexual violence amounting to an international crime or a tactic of terrorism;³² the profile and motivation of the perpetrators; the profile of the survivors; the stigma that is often associated with sexual violence, and its impact on direct and indirect survivors; and a climate of impunity which encourages the perpetuation of acts of sexual violence. For example, overall economic disruption caused by the conflict may put women in greater danger of being trafficked for the purpose of sexual exploitation, or for abduction and extortion, by armed groups.³³

32 SCR 2331 (2016).

33 UN Action, *Analytical and conceptual framing on conflict-related sexual violence* (UN Action, 2011).



To reinforce prevention, Security Council resolution 1960 (2010) established Monitoring, Analysis and Reporting Arrangements (MARA) in all situations where CRSV is a concern. The purpose of the MARA is to ensure the systematic gathering of timely, accurate, reliable and objective information in order to promote increased, timely action to prevent and respond to CRSV. It is intended to improve the monitoring of and reporting on CRSV, and the programmatic responses developed to address it.

The MARA involves setting up arrangements, tailored to each country, to review information, monitor and verify incidents of sexual violence, provide analysis and prepare reports. Field presences play an essential role in these arrangements as they take the lead in monitoring and verifying incidents of CRSV and in providing relevant, accurate information when reporting to the Security Council.³⁴

Security Council resolution 1888 (2009) called for the deployment of **women protection advisers** (WPAs) within United Nations peace operations to protect women and children from rape and other forms of sexual violence.³⁵ WPAs are generally tasked with leading the monitoring and reporting function of the working group on CRSV, coordinating the preparation of reports, analysing information to identify patterns of violations, and coordinating multidisciplinary investigation teams.

The Secretary-General's Guidance Note on reparations for conflict-related sexual violence, developed jointly by OHCHR and UN Women, provides policy and operational guidance on reparations, in particular ensuring a gender-sensitive and victim-centred approach that takes stigma into account, is comprehensive and is transformative. It asks for gender-based discrimination to be addressed as a root cause of sexual violence.³⁶ Some of the principles outlined in the note are also applicable to United Nations engagement with regard to reparations for victims of gender-based violence outside a conflict or post-conflict situation, as well as to victims of other violations of international human rights law and international humanitarian law.

34 For more information on the MARA, its different country-level arrangements and reporting requirements, see OSRSG-SVC and UN Action, *Provisional Guidance Note, Implementation of Security Council Resolution 1960 (2010) on Women, Peace and Security (Conflict-Related Sexual Violence)*, 2011.

35 Also relevant is Security Council resolution 1889 (2009), paragraph 7, which requested the Secretary-General to continue to appoint WPAs to United Nations peace operations. See also DPA, DPKO-DFS, OHCHR, OSRSG-SVC Terms of Reference for Women Protection Advisors (September 2011).

36 *Guidance Note of the Secretary General on Reparations for Conflict-Related Sexual Violence* (2014), www.ohchr.org/Documents/Press/GuidanceNoteReparationsJune-2014.pdf (also available in Arabic, French and Spanish).



Ukraine

The Human Rights Monitoring Mission in Ukraine (HRMMU) documented conflict-related sexual violence as part of its monitoring activities that started in 2014. In 2017, HRMMU issued a thematic report on CRSV that identified three main patterns of sexual violence in conflict: 1) in the context of deprivation of liberty; 2) at checkpoints; and 3) CRSV occurring when armed actors are in proximity to civilians.

HRMMU faced difficulties in documenting cases, due to stigma and fear. Most cases that HRMMU could document emerged from interviews related to torture.

HRMMU found that conflict had a negative impact on the provision of services to survivors. There was little or no assistance available in smaller towns and rural areas. This is especially critical for life-saving post-exposure prophylaxis, which has to be taken within 72 hours. HRMMU found that access to services for survivors was particularly limited in territory controlled by armed groups due to the restrictions they imposed on humanitarian actors, especially those carrying out activities linked to protection and psycho-social support.

The release of the report triggered dialogue with duty-bearers and offered HRMMU a solid basis to advocate for changes, including on legislation on sexual violence.³⁷

(b) Trafficking in women and girls

Trafficking in persons is a human rights violation and a crime that can be perpetrated by a wide range of actors, including family members, brokers, recruiters, national and transnational criminal networks and, in several cases, border officials. It takes place within national borders as well as transnationally. Women and children constitute a big proportion of survivors of trafficking, but men can also fall prey to traffickers. Many are trafficked for the purpose of sexual exploitation, although not exclusively. Trafficking may also take place for the purpose of forced labour, slavery or practices similar to slavery, servitude and the removal of organs.³⁸

States must take legal, institutional and policy measures to combat trafficking in women and exploitative prostitution. Beyond enacting legislation, it is essential that national authorities introduce preventive measures and programmes and bring perpetrators to justice.

Contributory factors that increase the vulnerability of women and children to trafficking include poverty, conflict and post-conflict settings, demand that is shaped by discriminatory attitudes and beliefs, a lack of accountability and of effective judicial systems, and a lack of education, training and employment opportunities. Trafficking in women may also be triggered or committed by foreign or international military forces or civilian personnel present in a country (e.g., a United Nations peace operation) that create a demand for sexual services.

³⁷ OHCHR, *Conflict-related sexual violence in Ukraine*, 14 March 2014 – 31 January 2017.

³⁸ The definition of **trafficking in persons** is included in article 3 (a) of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children. Trafficking in persons is the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs.



The *OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking* provide practical, rights-based policy guidance on how best to address this matter, including by promoting and facilitating the integration of a human rights perspective into legislation, policies and interventions.³⁹

Field presences planning to monitor this area may look at the following issues:

- What forms of trafficking exist in the country? What methods are employed? Is the country a source, transit or destination country? Who are the victims and who is at risk of becoming a victim? Who is involved in committing the crime?
- Is there legislation to prosecute and punish trafficking? Is it adequate? Is it implemented?
- Did the country adopt a national plan to combat trafficking? Did it set up an oversight mechanism (e.g., a national committee, a task force on trafficking or similar mechanism)?
- What measures are taken to prevent trafficking, in particular by providing people at risk with information and opportunities?
- Is there an action plan or a mechanism to protect people from sexual exploitation and abuse at the national, United Nations or other level?
- Is protection and support available to survivors of trafficking? Are legal assistance and temporary residence permits provided? Are assistance and support made conditional upon the victim's willingness to cooperate?
- Any special measures for children survivors of trafficking?
- What remedies exist for survivors? Are there sufficient shelters and programmes to provide assistance for survivors of trafficking? Are they adequately resourced, and sustainable? Do they succeed in assisting survivors of trafficking?
- What are the guarantees for the safe repatriation of survivors of trafficking?

As in other areas, field presences can engage with relevant Special Procedures mandate holders on these issues, such as the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on the sale of children, child prostitution and child pornography; and the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, the Special Rapporteur on violence against women, its causes and consequences, and the Working Group on Discrimination against Women in Law and in Practice.

(c) Understanding the consequences of violence against women, and taking steps to counter it

Violence against women prevents them from enjoying their human rights and fundamental freedoms. It has consequences for women's health and their physical and psychological well-being, carries a heavy human, economic and social cost, hinders their participation in political and public life and can lead to further exposure to harm. HROs must be cognizant of such consequences, as they impact on the enjoyment of several rights.

In four categories – health, psychosocial, security and community environment, and legal and protection – the table below summarizes the main consequences and impact of violence against women.

³⁹ E/2002/68/Add.1. See also WHO, *Ethical and safety recommendations for interviewing trafficked women* (WHO, 2003).

Table 3. The impact of violence against women

HEALTH	PSYCHOSOCIAL
<ul style="list-style-type: none"> ■ Death (e.g., homicide, suicide, maternal mortality, infant mortality) ■ Injury, disability ■ Sexually transmitted infections, HIV/AIDS ■ Reproductive health disorders ■ Miscarriage, unwanted pregnancy, unsafe abortion ■ Pregnancy complications ■ Sexual disorders ■ Shock ■ Chronic infections or pain ■ Disease ■ Eating disorders ■ Alcohol/drug abuse 	<p>Emotional and psychological</p> <ul style="list-style-type: none"> ■ Post-traumatic stress disorder ■ Anxiety, fear ■ Anger ■ Shame, insecurity, self-hate, self-blame ■ Depression ■ Suicide thoughts ■ Sleeping problems ■ Psychosomatic complaints <p>Social</p> <ul style="list-style-type: none"> ■ Blaming the victim ■ Loss of ability to function in family and society ■ Social isolation ■ Destruction of relationships ■ Exclusion from community ■ Social stigma ■ Inability to marry or separate or divorce ■ Deeper gender inequality ■ Loss of income, including through an inability to be employed
SECURITY AND COMMUNITY ENVIRONMENT	LEGAL AND PROTECTION
<ul style="list-style-type: none"> ■ Victim feels insecure, threatened, afraid, unprotected and at risk of further violence ■ Climate of fear and insecurity, either among the entire community or only among groups in more vulnerable situations ■ Widespread violence against women, targeting of communities ■ Community feels inadequate or powerless for not having prevented the violence ■ Community resorts to vigilante “justice” to protect itself against suspected perpetrators ■ Destruction of social fabric, breakdown of moral systems ■ Dislocation of families (e.g., violence committed in front of family members) 	<ul style="list-style-type: none"> ■ Strain on already overburdened police and court systems ■ Inadequate laws governing various forms of violence against women may translate into a lack of judicial remedies for survivors ■ Inadequate investigation of incidents, owing to a lack of specialized training of law enforcement and prosecution personnel ■ Judicial and enforcement bodies are discriminatory ■ No penal sanctions for perpetrators, impunity ■ Inappropriate judicial responses that further traumatize victims, such as early and forced marriage to the perpetrator ■ Poor reporting of incidents as a result of lack of confidence in the judicial system and/or stigma, self-blame ■ Lack of or limited legal assistance available to help survivors to report cases ■ Increased incidence of repeated offences against the same victim, or within the same community



Field presences should encourage, support and monitor the development of comprehensive prevention and response strategies – encompassing legal, political, administrative and cultural measures – by national authorities that seek to protect women from any form of gender-based violence. Some of these measures may include:

- The adoption of legislation to punish acts of violence against women, whether those acts are perpetrated by State actors or by private individuals.
- The establishment of mechanisms and procedures to facilitate access to justice for women who have been subjected to violence and to provide them with effective redress for the harm suffered.
- National action plans to promote the protection of women from any form of violence, or the inclusion of provisions for that purpose in existing plans, along with adequate resources for implementation.
- The dissemination of information on specialized services directed at women subjected to violence, including medical treatment and health care, counselling, legal advice, social services and other support structures and measures that provide safety and offer physical and psychological rehabilitation.
- The sensitization and training of law enforcement officers and public officials responsible for implementing laws and policies to prevent, investigate and punish violence against women.
- Measures, particularly in the field of education, to modify the social and cultural patterns of behaviour of women and men, and to eliminate prejudices and practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for women and men.



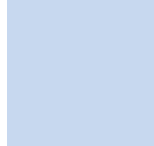
Haiti

The regional offices of the United Nations Stabilization Mission in Haiti (MINUSTAH)-Human Rights conducted several sensitization activities on international human rights instruments for the protection and promotion of the rights of women, on Haitian legal procedures for the prosecution of sexual crimes and on the protection of women's rights in the event of natural disasters. As a member of the sub-Cluster on gender-based violence run by the Protection Cluster set up in the aftermath of the 2010 earthquake, MINUSTAH-Human Rights monitored and reported on incidents of gender-based violence and assistance to survivors, including through an agreement with the International Organization for Migration (IOM).



Sudan

The Human Rights component of the African Union/United Nations Hybrid Operation in Darfur organized workshops addressing sexual gender-based violence in West Darfur, and developed and installed billboards relating to sexual and gender-based violence around South Darfur. It produced leaflets on the mandate, role and services of the Family and Child Protection Units, and it trained State actors on human rights and criminal investigation procedures.



Colombia

As part of its efforts to improve access to physical and mental health, justice and protection services for survivors of gender and sexual violence, OHCHR Colombia issued a report about a hotline that provides assistance and orientation services to women who have been victims of violence. The report included observations and recommendations to improve these services and facilitate women's access.

6 Access to justice

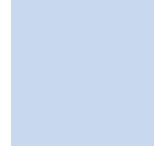
The right to access to justice encompasses all interactions between women and justice systems aimed at seeking redress. When monitoring women's access to justice, HROs should be aware that the principle of equality before the law, as stated in article 15 of the Convention on the Elimination of All Forms of Discrimination against Women, means that women's equal status before the law – be it as claimants, witnesses or defendants – should be protected. Article 2 stipulates that States parties must take all appropriate measures to guarantee the substantive equality of men and women in all areas of life, including through the establishment of “competent national tribunals and other public institutions” to ensure the “effective protection of women against any act of discrimination”.⁴⁰

Across the world, an impressive body of judicial decisions has contributed to advancing women's human rights. Case law has advanced the legal understanding of these rights, and judicial decisions have challenged laws that should be repealed. These decisions have led to positive changes in women's lives, making justice a powerful avenue for the advancement of women's rights and women's empowerment.

In most countries, however, women face legal, institutional, social and other types of barriers to accessing justice.

Monitoring women's access to justice means looking at ground-breaking judicial decisions that advance women's rights, and understanding the factors enabling positive judicial developments, while also analysing the obstacles preventing women from accessing and obtaining justice.

⁴⁰ The content and scope of this provision are further detailed in the Committee's General Recommendation No. 28 (2010).



Ground-breaking jurisprudence

In pursuit of justice, a report by UN Women, reviews some of the ground-breaking cases on women's human rights. This jurisprudence established, for instance, that:

- When a husband rapes his wife, it is a crime.
- Women have the right to be free from sexual harassment in the workplace.
- Customary inheritance laws must comply with guarantees of equality.
- Women have the right to an abortion in certain circumstances.
- Sexual violence is a tactic of war and a war crime.
- Reparations for violence against women must be "transformative".⁴¹



Ground-breaking jurisprudence of the Inter-American Court of Human Rights

The *Campo Algodonero* case ("Cotton Field" case)

In 2009, the Inter-American Court of Human Rights issued an important decision in the case of *González et al. ("Cotton Field") v. México*, known as the *Campo Algodonero* case.

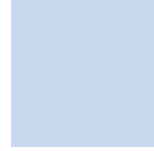
Campo Algodonero concerns three in a fifteen-year series of hundreds of unsolved and poorly investigated disappearances, rapes and murders of young, predominantly migrant women and girls in Ciudad Juárez, a Mexican city across the border from the United States of America.

The Court found that Mexico had violated the rights of the three young women and their families. The case was particularly significant as the Court found that Mexico had failed to prevent the murder and enforced disappearance of the three young women in a structural context in which hundreds of women had been murdered and disappeared and the State had failed to act.

In particular, the Court declared that the State was internationally responsible for the following reasons: (i) not having taken measures to protect the victims, two of whom were children; (ii) the lack of prevention of these crimes, despite full awareness of the existence of a pattern of gender-related violence that had resulted in hundreds of women and girls being murdered; (iii) the lack of response from the authorities to the disappearances; (iv) the lack of due diligence in the investigation of the homicides, as well as the denial of justice; and (v) the lack of an adequate reparation. The Court also declared the State responsible for the violation of the human rights of the mothers and next of kin of the victims.

The Cotton Field case has been widely regarded as the most progressive decision regarding the recognition and application of a gender-perspective analysis in Inter-American human rights jurisprudence.

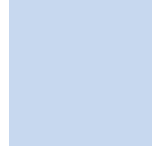
⁴¹ UN Women, *Progress of the World's Women: In Pursuit of Justice* (2011), pp. 16 ff.



Some of the obstacles preventing or hindering women from accessing or obtaining justice include:

- Laws and procedures regulating judicial proceedings that discriminate against women (e.g., the status of a woman as witness, or her ability to provide evidence, is accorded less weight than that of a man; the ability of a woman to access justice is dependent on assistance or agreement from her husband or a male relative, or there are other limitations on women's legal capacity). Proceedings may also be discriminatory by making it difficult for women to report cases and obtain positive outcomes (e.g., because of standards or the burden of proof for cases of sexual violence or sexual harassment in non-criminal proceedings).
- De facto or substantive discrimination, biases against women among practitioners from law enforcement agents to prosecutors, judges and lawyers. This can range from knowledge gaps in applying laws on women's rights to a lack of expertise in dealing with trauma and to procedures for hearing victims that result in re-victimization.
- Judicial gender stereotyping, when judges or other legal practitioners reach conclusions based on preconceived beliefs about women rather than on the basis of the facts of the case (e.g., a woman was sexually assaulted because she was "provoking"). This also concerns situations where judges did not address or counter harmful gender stereotypes in a particular case, perpetuated either by a law, a policy, a legal argument or a decision in a lower court.
- Social, cultural and institutional barriers – or a lack of access – to effective, gender-sensitive remedies, such as a lack of (or limited) legal literacy, cost, distance, barriers concerning language or evidence, or the threat of social sanction or stigma if women report violations and approach the justice system.
- Standards of proof that make proving claims of sexual violence difficult, and unlikely to be successful.
- Obstacles relating to the perpetrators, whether State or non-State actors, linked to their position of real or perceived power vis-à-vis the victims, their means to defend their interests and positions in court and outside it, and their accountability – or lack thereof – for past behaviour.
- The overall functioning of the judiciary and the trust, or lack thereof, it enjoys among women rights holders and the population as a whole.

In cases of violations of women's rights, these obstacles, which often accumulate, result in high levels of attrition: in the first place, cases are under-reported, while the few that are reported are dropped as they progress through the justice chain (sometimes thanks to the intervention of men within the complainant's family), so that only a fraction of them end in a conviction. Women who face multiple or intersecting forms of discrimination often face additional obstacles in accessing justice or in seeking redress for human rights violations.



Judicial stereotyping

“It is natural for a man to respond to a nagging female partner with violence.”

“Women’s demands for equal pay for equal skills are not justified, because women are likely to stop working to have children.”

“A man who kills his wife may receive a more lenient sentence if she was unfaithful.”

These are judges’ comments – made not 100 years ago, but in the past 10 years. These cases were not weighed on their merits but were swayed by deeply embedded notions that limit the protection of women’s and girls’ human rights. Justice was denied to the women in these cases, just as it is denied to many others, every day, in courtrooms around the world.

Despite decades of struggle for women’s right to equality, judicial processes worldwide are often flawed by discriminatory gender stereotypes. This can amount to a denial of a woman’s right to justice by the very legal system that is supposed to protect fundamental human rights for everyone. Stereotyping in the judiciary undermines justice for women, in particular in cases of gender-based violence and sexual and reproductive health and rights. This may occur in at least five ways:

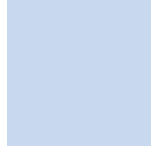
- 1) It compromises judges’ impartiality.
- 2) It influences judges’ understanding of criminal offences and their interpretation of laws regulating such offences, as well as their perception of whether or not violence has occurred in cases such as the rape of sex workers, or of married women by their husbands, or cases of domestic violence in same-sex relationships.
- 3) Stereotypes affect judges’ opinions on witness credibility and legal capacity, for example when they take a negative view of the credibility of victims who do not behave in a stereotypical manner.
- 4) Stereotyping can also stop judges from holding perpetrators accountable, or can even cause them to blame the victim.
- 5) It can impede access to legal rights and protection for women victims.

As part of their monitoring of women’s access to justice, field presences can undertake research and report on judicial stereotyping (e.g., by reviewing how cases of sexual crimes are investigated and decided, as well as cases relating to sexual and reproductive health and rights, such as those on abortion, sex work, HIV transmission, adultery, contraception, same-sex sexual conduct and gender identity).⁴²

HROs should advocate for measures to overcome the obstacles impeding or limiting women’s access to justice, and should monitor the impact of such measures. These may include:

- For women claimants, providing legal-aid services that are gender-sensitive, accessible, and sustainable.
- Creating specialized courts such as mobile courts, which help bring justice to remote rural areas.
- Setting up referral networks of support services that provide emergency medical treatment (including a forensic medical examination), sexual and reproductive health care, psycho-social support,

⁴² S. Cusack, *Eliminating judicial stereotyping: Equal access to justice for women in gender-based violence cases*, June 2014, available at www.ohchr.org/EN/Issues/Women/WRGS/Pages/GenderStereotypes.aspx.



- shelter and legal advice for women, in a holistic, gender-sensitive, confidential and survivor-friendly manner. This has proved to reduce attrition considerably and to increase the number of convictions.
- Employing women in law-enforcement positions. Data shows that there is a positive correlation between the presence of women police officers and the reporting of sexual assault. Experience also shows that simply employing women is not enough: adequate investment in resources and expertise is also needed.
 - Educating judges, lawyers and police on the standards and principles underpinning women's rights, what they mean and how to implement them, and raising their awareness of gender stereotyping.

Formal judicial systems are, however, only one avenue through which women may access justice. Either by choice or from necessity, many women, especially those living in rural or poor urban areas, seek justice through **informal justice systems**. These systems often adopt practices that derive their authority from perceived cultural, customary or religious concepts, and tend to emphasize community harmony rather than individual rights. They are usually dominated by men, and favour patriarchal outcomes, often reinforcing discriminatory practices against women. For example, informal systems may not consider gender-specific violations, including rape (both within and outside marriage) or domestic violence, or they may view those acts as minor offences or private matters. Women may be pressurized into agreeing to what seems fair to community leaders, and may thus be forced to accept outcomes they are not necessarily satisfied with.

Still, informal justice systems are not all the same, and in rules and processes they may differ considerably from country to country. In monitoring women's access to justice through these systems, HROs should contextualize their practices and assess the extent to which they uphold human rights standards, in particular with respect to women's rights.



Afghanistan

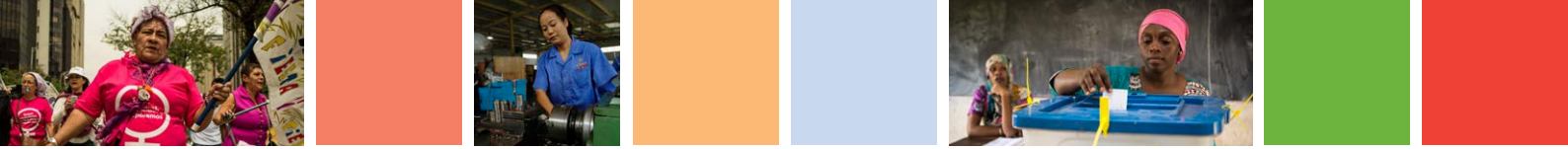
Monitoring how mediation affects women's access to justice

In 2018, the human rights component of UNAMA issued the report 'Injustice and impunity: mediation of criminal offences of violence against women'. The report described the individual experiences of Afghan women, survivors of violence across the country, between August 2015 and December 2017 and documented how the widespread use of mediation in cases of violence against women deprives women of access to justice and hinders the realization of their fundamental rights.

The report documented consistent patterns of women routinely subjected to pressure by authorities, family members and perpetrators to withdraw their criminal cases and consent to resolving the incident through mediation.

The use of mediation, which presumes that the parties have equal bargaining power, is unsuitable for the resolution of criminal offences of violence against women, and does not offer women the necessary robust legal protection of their rights.⁴³

43 UNAMA, OHCHR, *Injustice and impunity: mediation of criminal offences of violence against women*, Kabul, 2018. See also the text box on Afghanistan in the section on legislation in this same chapter.



Democratic Republic of the Congo

The MONUSCO-Joint Human Rights Office implemented a programme to increase access to justice for victims and witnesses. It provided technical and financial assistance for local NGOs, to enable them to give free legal advice to survivors of sexual violence, and it also provided support for prosecutors and judicial investigators.

Finally, seeking justice should result in obtaining **reparation** for the harm suffered. Reparation can take the form of restitution, compensation, rehabilitation, satisfaction or guarantees of non-repetition. HROs can monitor whether victims do indeed obtain reparation and whether reparation provisions are gender-sensitive and do not exclude, marginalize or further penalize women claimants. Some recommendations on reparation:⁴⁴

- Adequate reparation entails a combination of different forms.
- Individual and collective reparations should complement and reinforce each other.
- The meaningful participation and consultation of victims in the mapping, design, implementation, monitoring and evaluation of reparations should be ensured.
- Reparations should strive to be transformative, including in design, implementation and impact.
- Urgent interim reparations should be made available to address immediate needs and prevent irreparable harm.
- Appropriate procedural rules should be in place for proceedings involving sexual violence and reparations.

7 Education

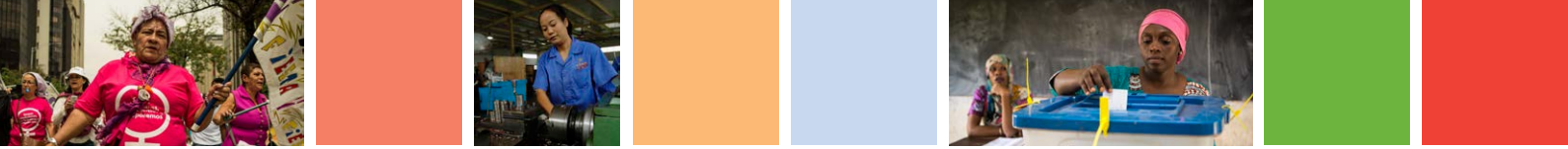
Article 10 of the Convention on the Elimination of Discrimination against Women calls on States parties to take measures to ensure that women enjoy equal rights in the field of education: in particular, that they have the same conditions as men for access to education at all levels, including continuing education, early childhood education, adult literacy programmes and career and vocational guidance, and the same opportunities to benefit from scholarships and grants. States should eliminate stereotypical concepts of the roles of men and women at all levels and in all forms of education, for instance by periodically revising textbooks, curricula and school programmes and adapting teaching methods. States should reduce student dropout rates among women and girls and introduce measures allowing them to return to school and providing education opportunities for those who have left school prematurely.

⁴⁴ See OHCHR and UN Women, *Guidance Note of the Secretary-General: Reparations for Conflict-Related Sexual Violence*, June 2014.

In monitoring girls' and women's enjoyment of the right to education, HROs should assess a range of aspects, such as:⁴⁵

- Legal and policy frameworks on education and gender equality, including gender-sensitive and adequate budgets, and whether the right to education is codified and justiciable.
- Disaggregated data (by sex, age, race, ethnicity, geographical area, etc.) on girls' and women's education at all levels (e.g., enrolment rates, attendance rates, distance to schools, school-related gender-based violence, scholarships, proportion of women having completed pre-primary, primary and secondary school and university, and evolution over the years.
- Data on education based on surveys, opinions and experiences, including those collected by rights holders (students, school clubs, teachers and parent-teacher associations) with communications technology, such as SMS, crowdsourcing or the use of score cards.
- The enjoyment of the right to good-quality, inclusive education by every girl, with a particular focus on those most at risk of marginalization, exclusion and generally being left behind (migrant girls, girls with disabilities, girls who belong to a minority, etc.).
- The availability of career and vocational guidance to women and girl students.
- The differences in educational and scholarship opportunities granted to women and girls on the one hand and men and boys on the other.
- The differences in quality education and the curricula delivered to women/girl and men/boy students, including curricula that de facto are mostly followed by women/girls or men/boys, and the different career opportunities deriving from them.
- The extent to which textbooks, school programmes and teaching methods are gender-sensitive as opposed to reproducing harmful gender stereotypes that undermine gender equality and women's empowerment.
- Violence against women and girls in accessing and enjoying their equal right to education, including in the context of violent extremism (by teachers, fellow students, online, etc.).
- Distance to school and the provision of safe, affordable, gender-sensitive and accessible means of transport to and from school.
- The dropout rates for women/girl students and related causes, including discrimination, gender-based violence and the exclusion of women and girls relating, for example, to menstruation, pregnancy, childbirth, harmful practices such as child marriage, sexual orientation or gender identity.
- The regulations, policies or plans pertaining to the education of pregnant students and students who have given birth, including the availability of childcare facilities, breastfeeding rooms and counselling on the school premises.
- In schools, infrastructure and facilities (or lack of them) that address the particular needs of girls, including as regards menstrual hygiene and safe, separate sanitation facilities.
- The regulations, policies or plans, designed with the participation of women/girl students, to encourage women/girl students to further their education and to encourage parents to permit this.
- The regulations, policies or plans to grant adult women the opportunity to return to school or to attend training courses.
- The overall societal views on women's and girls' education, and attitudes to women who have a high education level and pursue highly regarded professional careers, including in sectors where they are less well represented.

⁴⁵ For a comprehensive overview of the obstacles to girls' education and the relevant human rights standards, see OHCHR, *The realization of the equal enjoyment of the right to education by every girl*, A/HRC/35/11 (2017); see also OHCHR, *Report on attacks against girls seeking access to education* (2015), www.ohchr.org/Documents/Issues/Women/WRGS/Report_attacks_on_girls_Feb2015.pdf.



- Other obstacles that may hinder women's and girls' access to education, such as disproportionate domestic or caretaking responsibilities, child labour or sexual exploitation and abuse.
- The protection of girls (or lack of it) against exclusion from and interference by third parties in quality education, including education provided by private entities and non-State organizations such as religious or community schools or schools run by non-governmental organizations.
- Access (or lack of it) to child-friendly, gender-sensitive and safe judicial and non-judicial remedies when women's and girls' right to education is violated.
- Enjoyment by every girl of the right to quality education in humanitarian contexts and armed conflicts that tend to affect women's and girls' education disproportionately.

8 Housing, land and property

The right to adequate housing is recognized in international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights (art. 11 (1)) and the Convention on the Elimination of Discrimination against Women (article 14 (2)), which also recognizes the right to property on a basis of equality between men and women (article 16 (1)). Land is a cross-cutting issue that impacts directly on the enjoyment of a number of human rights. For many people, it is a source of livelihood, and is central to economic rights. Also, land is often linked to peoples' identities, and tied to social and cultural rights. The mismanagement of land frequently causes violent conflict and obstructs the restoration of sustainable peace.⁴⁶

When monitoring women's rights in the area of housing, land and property, HROs may consider the following aspects:⁴⁷

- Disaggregated data (at a minimum by sex and if possible by age, race, ethnicity, geographical area, etc.) on land ownership and tenure exercised for residence or livelihood (such as agricultural lands or lands used for hunting, gathering or grazing). Include data on population living in segregated communities and informal settlements with limited or no basic services such as safe water, sanitation or electricity, and in poor housing conditions.
- Statutory or customary rules and practices that make women's access to housing, land or property dependent on a third person, often a male relative. For instance, rules that make the husband the head of household, with the implication that he has control over marital property during marriage and upon separation or divorce.
- Social and development policies and programmes that may improve, limit or exclude women's access to housing or their control over household resources and security of tenure. For instance, States that do not recognize families of single mothers may adopt housing programmes that de facto exclude single women or single mothers as possible beneficiaries. Such States may have policies or practices limiting women's access to credit, e.g., by making credit conditional on the husband's consent.

46 OHCHR website on land and human rights:
www.ohchr.org/EN/Issues/LandAndHR/Pages/LandandHumanRightsIndex.aspx.

And on women and land, property and housing:
www.ohchr.org/EN/Issues/Women/WRGS/Pages/Land.aspx.

Also see OHCHR publications:
- Realizing Women's Rights to Land and Other Productive Resources
- Land and Human Rights: Standards and Applications
- Land and Human Rights: Annotated Compilation of Case Law.

47 See also OHCHR, *Women and the right to adequate housing*, 2012 (United Nations publication, Sales No. E.11.XIV.4).

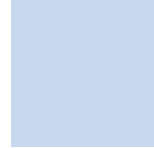
- In the context of access to, use of and control over land for livelihood, HROs may need to analyse whether women have equal access to the services necessary for them to use and control land effectively, such as agricultural extension services and financial credits.
- Women's access to different forms of formal and informal tenure, and factors limiting or increasing such access. In the context of housing: rental accommodation, cooperative housing, lease, owner occupation, emergency housing, informal settlements. Where land tenure is broader, its forms include sharecropping, fishing or grazing rights and right of common, such as the right to draw water or to collect firewood, turf or plants. Factors limiting access to tenure include male preference in inheritance, male privilege in marriage, and male bias in land distribution programmes.
- Women's participation in decision making on housing policies, rural development, agrarian reform, urban planning, land-related dispute resolution and restitution. Women's representation and participation should be ensured in the exercise of collective rights, such as indigenous peoples' right to their traditional lands.
- The possible correlation between the incidence of domestic violence and the type of housing (research shows that violence against women can result from inadequate housing conditions or insecure tenure, as it is more difficult for women who do not enjoy security of tenure to leave an abusive relationship).⁴⁸ When their access to land is granted through a marital relationship, women may be forcibly evicted from their land after being widowed or divorced.
- The impact on women of large-scale land acquisition or lease in the context of development (often known as "land grabbing"), committed by State or non-State actors. Impacts of forced eviction, displacement or relocation may be different for women and men.

9 Work

Women must be guaranteed the same employment rights and opportunities as men. HROs should monitor the extent to which national authorities take all the measures necessary to eliminate discrimination against women in the field of employment, including by ensuring that women enjoy, on a basis of equality with men, the following rights:

- To work;
- To employment opportunities;
- To free choice of profession and employment;
- To promotion, job security and all benefits and conditions of service;
- To equal remuneration and to equal treatment in respect of work of equal value;
- To social security and paid leave; and
- To the protection of their health and to safe working conditions.

⁴⁸ Ibid.

*i*

International standards on women workers' rights

In addition to the recognition of rights relating to work in United Nations human rights treaties, in particular the Convention on the Elimination of Discrimination against Women and the International Covenant on Economic, Social and Cultural Rights, women workers' rights are also internationally protected by the international labour standards adopted by the International Labour Organization (ILO). The main ILO conventions on women workers' rights are:

- Convention No. 100 on equal remuneration;
 - Convention No. 111 on discrimination (employment and occupation);
 - Convention No. 156 on workers with family responsibilities;
 - Convention No. 183 on maternity protection; and
 - Convention No. 189 on domestic workers.
- Conventions 100 and 111 are widely ratified and are binding on States in their entirety (reservations are not permitted in ILO Conventions), while the others have not been ratified by many States. HROs can use this branch of international law when monitoring women workers' rights. They can monitor compliance with these standards, advocate for their ratification, and use and refer to recommendations and observations made by the supervisory mechanisms of the ILO as well as to decisions on complaints about breaches of Conventions.

In monitoring the enjoyment of women workers' rights, HROs should consider aspects such as:

- The ability of women to choose a profession freely, including outside the traditional areas of women's work (e.g., education or health), and to access it by receiving appropriate education and training.
- Societal and cultural attitudes towards the presence of women in different work areas.
- Disaggregated data on women at work (e.g., employment rates by sector, level, formal and informal, income levels).
- The level of gender segregation – both horizontal (by sector) and vertical (by level) – in the labour market (women tend to be concentrated in certain sectors, including the informal economy, and in lower or less valued positions).
- Women's access to social security, including retirement, unemployment, sickness and old-age benefits.
- Regulations and policies allowing parents to combine family obligations with work responsibilities, including access to paid maternity leave, parental leave and child-care facilities.
- The transparency of recruitment processes, and any differences between the hiring criteria applied to women and men.
- The protection of women – in law and in practice – from discrimination at work based on their marital status or maternity, including in terms of employers' practice of using pregnancy or marital status as a criterion when hiring or dismissing women employees.
- The protection of women – in law and in practice – from all forms of violence in the workplace, including sexual harassment, and women's ability to seek redress through appropriate administrative and judicial proceedings.
- Women's ability to set up their own enterprises and to access credit, and regulations and policies that hamper or facilitate women's entrepreneurship and access to decision-making positions in business.

10 Sexual and reproductive health and rights

The Committee on Economic, Social and Cultural Rights (CESCR), the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child have clearly indicated that women's right to health includes their sexual and reproductive health. It not only forms an integral part of the general right to health, but is fundamentally linked to the enjoyment of many other human rights, including the rights to education, work and equality, in addition to the rights to life, privacy and freedom from torture, and individual autonomy.⁴⁹

Sexual and reproductive health and rights encompass both the freedom to control one's own health and body and the right to enjoy a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of sexual and reproductive health. Sexual and reproductive health also means being able to have a safe and satisfying sex life. Women are entitled to decide on the number and spacing of their children and to have the information and services, including contraceptive services, needed to make such decisions.⁵⁰ Human rights bodies have been calling on States to decriminalize services that only women require, and have established that access to safe abortion services should be ensured at the very least in cases of rape, and incest, and where the life or health of the woman is at risk. In addition, post-abortion services must always be accessible and of a high standard.



Treaty bodies' general comments on sexual and reproductive health and rights

Convention on the Elimination of Discrimination against Women General Recommendation 24 (1999) on women and health

States must eliminate discrimination against women in the field of health care throughout their lifespan and must ensure that women receive appropriate services relating to family planning and in connection with pregnancy, confinement and the post-natal period, including free services where needed, and adequate nutrition.⁵¹

General Comment 22 (2016) on the right to sexual and reproductive health

States' legal obligations to respect, protect and fulfil this right include:

- The obligation to repeal or eliminate laws, policies and practices that criminalize, obstruct or undermine an individual's or a particular group's access to health facilities, services, goods and information;
- The obligation to ensure that all have access to comprehensive education and information that is non-discriminatory and evidence-based and that takes into account the evolving capacities of children and adolescents;
- The obligation to ensure universal access to quality sexual and reproductive health care, including maternal health care, contraceptive information and services, and safe abortion care;
- The prevention, diagnosis and treatment of infertility, reproductive cancers, sexually transmitted infections and HIV/AIDS.

⁴⁹ See also OHCHR, information series on *Sexual and reproductive health and rights* (2015), available at: www.ohchr.org/EN/Issues/Women/WRGS/Pages/HealthRights.aspx.

⁵⁰ Article 16, CEDAW.

⁵¹ A/54/38/Rev.1, chap. I.



Ideologically based policies or practices, such as the refusal to provide services based on conscience, must not prevent people from getting care. An adequate number of health-care providers willing and able to provide such services should be available at all times in both public and private facilities.

General Comment 20 (2016) on the implementation of the rights of the child during adolescence

States should adopt comprehensive gender- and sexuality-sensitive sexual and reproductive health policies for adolescents. Unequal access by adolescents to such information, commodities and services amounts to discrimination, with adolescent girls being the group most at risk of dying or suffering serious or lifelong injuries in pregnancy and childbirth.

Transgender and intersex persons should not be subjected to involuntary sterilization, and intersex children should not be subjected to medically unnecessary surgery without their full and informed consent. Women with disabilities need more attention and extra sensitivity to their situation, adolescents should not fear going to the gynaecologist because they are not supposed to have any sexual encounters, and in many countries taboos around sex, generally, also affect the ability of single women to access services.



Women and sexually transmitted infections (STIs) and HIV/AIDS

Women and adolescent girls are particularly at risk of HIV/AIDS and other sexually transmitted infections, not only thanks to their reproductive function, but also because of economic and social inequality and culturally prescribed gender stereotypes, which place them in a subordinate position in relation to men when it comes to decisions on sexual relations. Often, violence against women is both a cause and a consequence of an STI or HIV/AIDS, and contributes to its transmission. Women who are HIV-positive are usually stigmatized, which triggers further discrimination and violence.⁵² They also are at greater risk of being subjected to involuntary sterilization. HROs must be cognizant of, and analyse, the interplay between gender-based discrimination, inequality, violence against women, STIs and HIV/AIDS, and how it impacts on women's access to health care and justice.

Despite these rights, and related obligations, violations of women's sexual and reproductive health rights are frequent. They take many forms, including numerous legal, procedural, practical and social barriers to accessing sexual and reproductive health care and information, the denial of access to services that only women require, poor-quality services, women's access to services being subjected to third-party authorization, and procedures relating to a woman's reproductive and sexual health, including **forced sterilization**, **forced virginity examinations**, and **forced abortion**, being performed without her informed consent.

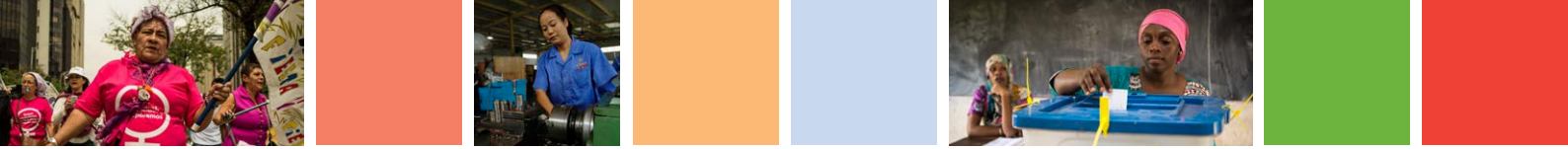
Violations of women's sexual and reproductive health rights are often deeply engrained in societal values relating to women's sexuality. Patriarchal concepts of women's roles within the family mean that how women are valued is often based on their ability to reproduce. Early marriage and pregnancy, or repeated pregnancies spaced too closely together, often as the result of efforts to produce male offspring because of the preference for sons, have a devastating impact on women's health, sometimes

⁵² E/CN.4/2005/72 and A/45/38.

with fatal consequences. In addition, women are often blamed for infertility, suffering ostracism and being subjected to various human rights violations as a result.

When monitoring women's right to health, HROs may consider the following aspects:

- The regulations, policies or plans providing for women's particular health-care needs, including by taking into account ethnic, regional or community variations or practices based on religion, tradition or culture.
- The policies, strategies or plans to combat HIV/AIDS and to protect women living with HIV/AIDS from discrimination.
- The adoption and implementation of a national strategy and action plan on sexual and reproductive health, with an adequate budget allocation.
- The policies or strategies for a medical response to violence against women, and the availability of health services staffed by health providers specialized in or with training on the issue of violence against women. This includes physical and mental health care for survivors of sexual and domestic violence in all situations, including access to post-exposure prevention, emergency contraception and safe abortion services.
- Whether States are actively addressing and seeking to modify social misconceptions, prejudices and taboos about menstruation, pregnancy, delivery, masturbation, wet dreams, vasectomy and fertility so that these do not obstruct an individual's enjoyment of the right to sexual and reproductive health.
- The regulations, policies or plans for sexual and reproductive health care, such as contraceptive services and goods, including whether there are provisions for them or any restrictions that require women to seek third-party authorization (e.g., parental, spousal or judicial) in order to access them.
- The laws and policies on abortion or termination of pregnancy, whether abortion is criminalized, and whether abortion services are accessible on request or only under certain circumstances, as well as the existence of policies for preventing unsafe abortion and providing post-abortion care.
- Laws criminalizing the non-disclosure of HIV status, exposure to and transmission of HIV, consensual sexual activities between adults, and transgender identity or expression.
- States censoring, withholding, misrepresenting or criminalizing the provision of information on sexual and reproductive health, both to the public and to individuals, as this can impede access to information and services and can fuel stigma and discrimination.
- Whether States prevent and prohibit private actors from imposing practical or procedural barriers to health services, such as the physical obstruction of facilities, the dissemination of misinformation, informal fees, or third-party authorization requirements.
- Cases and patterns of forced sterilization, forced virginity examinations and forced abortion (who are the victims and the perpetrators? What is the State doing about it? Etc.).
- The impact on women's rights, in particular sexual and reproductive health and rights, of health crises such as the Zika virus and States' responses to these crises.
- The availability and accessibility of publicly funded health-care services to prevent, detect and treat illness and conditions specific to women, including in terms of sexual and reproductive health. Where those services are not publicly funded, the availability, for disadvantaged women, of waivers or exceptions to any fee-for-service scheme, or other mechanisms to ensure that women in need can access and use health-care services.
- The extent to which health-care services are provided, and are being accessed, by women in vulnerable, marginalized or disadvantaged situations (e.g., older women, adolescents, women with disabilities, women living in rural areas, etc.).



- The role of health workers as human rights defenders engaged in the protection of sexual and reproductive health and rights, as well as attacks against them for their activities.
- Whether the right to health, including sexual and reproductive health, is justiciable, and whether women and girls have access to effective, transparent and gender-sensitive remedies and redress, including administrative and judicial ones.



Maternal mortality and morbidity

Over a quarter of a million pregnant women and girls die every year. As many as 98 per cent of these deaths are estimated to be preventable.

A maternal death is the death of a woman while pregnant or within 42 days of termination of pregnancy from any cause relating to or aggravated by the pregnancy but not from accidental or incidental causes.

The reasons why women and girls ultimately die or suffer injury during pregnancy and childbirth are often classified as the “three delays”:

- (1) delays in seeking appropriate medical care,
- (2) delays in reaching an appropriate health facility, and
- (3) delays in receiving appropriate care once at a facility.

These delays are fuelled by multiple factors that are concerning from a human rights perspective. They include:

- Women and girls have fewer resources and less education to enable them to access health-care services. Women who experience violence in the home may be less likely to seek health services for pregnancy or for injuries suffered as a result of domestic violence.
- Girls and adolescents, the highest risk group for maternal mortality and morbidity, encounter particular challenges when it comes to accessing information, including comprehensive sex education, and to accessing sexual and reproductive health services.
- Early marriage, which disproportionately affects girls, increases the likelihood that they will become pregnant before they are ready.
- Certain groups of women – such as indigenous women, women living in rural areas, displaced or refugee women – are subjected to multiple or intersecting forms of discrimination, affecting not only their access to facilities but also the way in which they are treated there, which in turn affects their willingness to return to such facilities.
- A lack of emergency obstetric care services, or the denial of abortion, often leads to maternal mortality and morbidity.

What to monitor?

- Are sexual and reproductive health services of good quality, available, accessible, affordable and acceptable to women and girls? Relevant services include contraceptive services, the detection and treatment of sexually transmitted infections, the detection of domestic violence, the management of unintended pregnancies, skilled birth attendance, emergency obstetric care and appropriate post-partum care.
- Do rights holders, in particular women and girls and civil society organizations, participate meaningfully in the development of laws, policies and programmes that concern their sexual and reproductive health?

- Can women and girls access contraceptive goods, services and information to enable them to decide on the number, timing and spacing of their children? What are the barriers to accessing such goods, services and information, and what are States doing to remove them?
- Can women and girls access safe abortion services, where legal, and post-abortion care?⁵³
- What is the situation of adolescents and unmarried or single women on these issues? Do they face specific challenges and stigma?



Mexico

As part of its work on sexual and reproductive rights, OHCHR Mexico documented cases of maternal mortality that could have been prevented. In doing so, OHCHR Mexico accessed files on maternal mortality cases brought to its attention by families and civil society organisations. This work allowed the Office to establish a constructive dialogue with authorities to analyze gaps in assistance and health care to women patients.

OHCHR Mexico based its work on the Technical guidance on the application of a human rights based approach to the implementation of policies and programmes for the reduction of preventable maternal mortality and morbidity. The Technical guidance was also the basis for capacity building activities that OHCHR Mexico organized with public health personnel.

11 Women human rights defenders (WHRDs)

Women human rights defenders, or women's human rights defenders, are women working on any human rights issue, as well as anyone working on human rights issues relating to gender equality.

WHRDs are formidable partners of field presences working on women's human rights. They are agents of change and are crucial for promoting accountability and respect for international human rights standards in at least two ways: (1) in championing women's empowerment, they pursue a transformative agenda for society; and (2) as defenders, they advocate for broader enjoyment of human rights.

WHRDs are exposed or subjected to the same types of risks as any human rights defender, but as women and/or because of their work they are also targeted or exposed to additional human rights abuses and violations – both online and offline. The work of WHRDs can be perceived as challenging a society's traditional notions of family and gender roles, which can lead to hostility from the general population and the authorities. They can therefore be stigmatized and ostracized by community leaders, faith-based groups, families and communities that consider them to be threatening religion, honour or culture through their work. This increases their risk of becoming the target of attacks.


53 OHCHR, *Technical guidance on the application of a human rights-based approach to the implementation of policies and programmes for the reduction of preventable maternal mortality and morbidity* (A/HRC/21/22), and follow-up reports, A/HRC/27/20 (2014) and A/HRC/33/24 (2016) on the 2030 Agenda for Sustainable Development. See also Reflection Guides (2016) for different stakeholder groups (health workers, health policy makers, national human rights institutions and the judiciary) available at: www.ohchr.org/EN/Issues/Women/WRGS/Pages/MaternalAndChildHealth.aspx.



For instance:

- In militarized societies dominated by men, WHRDs may be excluded and marginalized or may feel threatened in the conduct of their work. This results in their voices and requests going unheard in negotiation/peace-building processes.
- WHRDs are often targeted through threats and violence against their family members, including when they make presentations in international human rights forums such as the HRC.
- Gender-based violence is a common feature of attacks against WHRDs. For instance, in countries where women have taken part in peaceful protests, reports of sexual harassment and sexual violence against women protestors have been common, in addition to the violence and threats faced by all protestors.
- Attacks against WHRDs in the media often build on the same stereotypes they are trying to challenge: stereotypes about the role of women in society and about their sexuality (e.g., bad mothers or bad wives, lesbians or prostitutes).
- Restrictions on WHRDs' freedom of opinion and expression, freedom of movement, assembly and association. These are often justified in the name of public morality.
- Judicial harassment using laws on public morals, or bringing false charges.
- Attacks when defending the rights of individuals whose behaviour is criminalized, e.g., LGBT individuals, sex workers, drug users, people living with HIV, or others.

HROs can:

- Work with WHRDs as part of their monitoring activities: these defenders can be valuable sources of information, and can support HROs in reaching out to women.
- Support WHRDs in setting up national and regional networks to improve advocacy and protection.
- Monitor and report on the human rights situation of WHRDs, taking into account the gender-specific challenges and violations they may face.
- Publicly recognize and support the work of WHRDs. This is a first step in preventing or reducing threats and attacks against them.
- Support measures to prevent, protect from and respond to threats and attacks against WHRDs that take into account the particular experiences, views and needs of women human rights defenders (see Chapter 16 on *Engagement and partnerships with civil society* ).⁵⁴

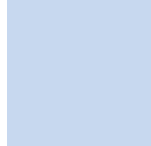


Guatemala

OHCHR Guatemala documented cases of threats and attacks against women human rights defenders, including situations of women “criminalized” for efforts to protect lands and natural resources, a phenomenon that has increased in recent years. The Office monitored cases of criminal charges brought against women in relation to this type of work.

Monitoring findings triggered collaboration with the Office of the Attorney General towards an internal policy to avoid the misuse of criminal proceedings against human rights defenders and to integrate a gender perspective in relevant cases.

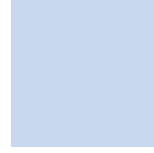
⁵⁴ See the report of the Special Rapporteur on the situation of human rights defenders (A/HRC/16/44).

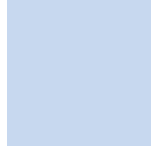


Reflect2protect

OHCHR campaign honouring women human rights defenders

In 2015, OHCHR marked the twentieth anniversary of the United Nations Fourth World Conference on Women in Beijing with a social media campaign and series of **12 videos** showcasing the stories, struggles and dreams of WHRDs, giving them a platform to describe the support they seek in order to continue their work safely. Each video portrays the story of an individual women's human rights defender engaged in one of the 12 areas of concern of the Beijing Platform for Action: poverty, education, health, violence against women, armed conflict, economy, power and decision-making, institutional mechanisms for the advancement of women, human rights, media, the environment and girls.





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