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Executive Summary

Millions of women suffer intimate partner violence (IPV) each year in countries experiencing or emerging from war. While the international community has increasingly recognized the urgency of combating conflict-related sexual violence, much less attention has been accorded to preventing IPV and addressing its repercussions in conflict-affected settings.

Addressing the full spectrum of violence in conflict entails preventing IPV and supporting IPV survivors. Recent evidence suggests that IPV prevalence can increase in some conflict settings due to the breakdown of traditional social and governance institutions, the prevalence of post-traumatic stress and harmful gender norms, and economic dislocation, among other factors.

This report looks at what is known about IPV in conflict settings and focuses on one strategy to improve the situation of survivors: increasing their access to justice. The case of Liberia, a country that has contended with the legacy of conflict and attempted to use legal reforms to combat high rates of IPV, is investigated in depth.

Three main findings emerge:

(1) IPV is the most common form of violence that women experience – even in war. Millions of women experience IPV in conflict-affected settings each year. For example, in Afghanistan, 46 percent of women between the ages of 15 and 49 – nearly 3.5 million women – experienced some form of IPV in 2015 (the most recent year data is available). Even in places where organized violence is rampant, no place is less safe for many women than their own homes.

(2) Access to justice is limited for IPV survivors in conflict-affected settings. A major challenge faced by IPV survivors is obtaining meaningful legal remedies. This is especially acute in many fragile or conflict-affected states, which do not have laws criminalizing IPV and, where laws exist, implementation is inadequate. Customary and informal systems of justice, which in some cases exacerbate or fail to sanction harmful practices, predominate in these settings.

(3) Legal reforms and innovative justice tools can improve the situation of IPV survivors. Although the law should only be one part of any effort to combat IPV, strategies to increase access to justice can meaningfully benefit survivors.

In Liberia, the government has pursued legal reforms to address high rates of gender-based violence, including IPV. Important initiatives include the establishment of a special court for sexual offenses and, in 2019, passage
of a law criminalizing domestic violence. Liberia’s experience illustrates both promising approaches, such as community paralegal programs, and persistent barriers to access to justice for IPV survivors, including an overburdened court system, the absence of forensic evidence, and the impact of customary norms.

A set of strategies for national governments and international actors to improve access to justice for IPV survivors in conflict settings is laid out. Broadly, three key recommendations are given:

◆ **Engage the customary system.** Governments should seek to ensure the participation of women in customary dispute resolution bodies, such as village councils. They should also support legal empowerment initiatives, including community paralegal programs, which bridge formal and customary systems, as well as education and awareness raising programs that aim to transform harmful gender norms.

◆ **Enact formal legislation.** A critical step for many fragile and conflict states is the enactment of legislation addressing both civil and criminal measures on IPV. Domestic violence laws send a powerful signal about what behavior is unacceptable and can help to transform norms around violence.

◆ **Improve implementation.** Implementation is key. Enacting legislation alone will not improve the situation of IPV survivors. To improve implementation, governments should consider initiatives such as the establishment of specialized courts for sexual violence, mobile courts, and gender-based violence prosecution units. They should also fund and support shelters for survivors and one-stop centers offering comprehensive medical, psychological, social, and legal services.

Finally, the international community has a pivotal role to play in supporting the efforts of national governments. They can, for example, fund and provide technical assistance to legal empowerment initiatives, such as community paralegal programs, and help build forensic science and evidence gathering capacity in conflict states. Governments should consider the establishment of an international treaty addressing violence against women, including IPV. More broadly, foreign aid directed at conflict-related sexual violence should appropriately prioritize IPV.
Intimate partner violence (IPV) is the most common form of violence women experience. Globally, approximately one in three women experience physical or sexual violence—or both—at the hands of a partner within their lifetimes. IPV is a human rights violation that implicates state responsibility under international law. The international community has explicitly recognized the challenges posed by IPV and other forms of violence against women by incorporating a specific target on gender violence into the cornerstone of the global development agenda, the Sustainable Development Goals.

Millions of women in fragile and conflict states experience violence at the hands of intimate partners each year. Even in these settings, which are characterized by weak institutions and organized political violence, no place is less safe for many women than their own homes. Indeed, a growing evidence base shows that the incidence and risk of IPV may increase in states affected by fragility and conflict. Although the causal connections between conflict and IPV are still emerging, it is clear that IPV is widespread in many settings already experiencing the effects of war. Of the ten countries with the highest IPV rates in the world, six are fragile or conflict affected. In Afghanistan, for example, 46 percent of women between the ages of 15 and 49—nearly 3.5 million women—experienced some form of IPV in 2015 (the most recent year data is available). And when violence occurs, the breakdown of social networks and legal institutions means that survivors of IPV in fragile, conflict, and post-conflict states often lack sanctuary or access to justice.

High rates of IPV have been documented in conflict-affected settings around the world, including variations within countries. In Colombia, residence in a district of high-intensity conflict increased the risk of IPV victimization by 12 percentage points. Living in a conflict-fatality-affected district in Liberia, compared to a district with no conflict fatalities, was associated with a 50 percent higher IPV risk, even five years after peace was declared. In Northern Ireland, the availability of weapons and the widespread impunity associated with the civil conflict have been linked to high rates of IPV.

The human tragedy of IPV is also a threat to international peace and security. The status of women in society is linked to a state's overall levels of security. Violence against women is an “early warning sign” of societal violence and a bellwether of compliance with international law. In 2001, the United Nations (UN) Security Council adopted Resolution 1325 on Women, Peace, and Security (WPS), formally recognizing that durable peace and security require respect for women's right to be free from gender-based and sexual violence. The Security Council adopted eight subsequent resolu-
tions that further link the global peace and security agenda with the status of women in conflict. A major global review of the WPS agenda published by the UN in 2015 found that IPV often escalates in the post-conflict period and that “a major factor contributing to this abuse was weak or absent rule of law institutions” following conflict.18

Law is a tool that states can use to confront intimate partner violence. Between 2008 and 2017, 47 states worldwide enacted laws criminalizing IPV. This wave of reform was, in part, a response to advocacy by civil society groups and activists putting a spotlight on the global crisis of violence against women, as well as to emerging international norms against violence, as reflected in agenda-setting documents like the Declaration on the Elimination of Violence against Women (DEVAW) and the Beijing Platform for Action.

However, legislative protections against IPV tend to be weaker in several respects in fragile and conflict-affected states, as will be explored further below. First, many fragile, conflict, and post-conflict states have no legislation specifically addressing domestic violence. Second, where states do have laws, implementation is hampered by the breakdown of governance, lack of resources, and the fact that customary law frequently supersedes the formal legal system. Third, in countries impacted by severe conflict, courts, ministries of justice, and prosecutorial services may be nonexistent or severely limited. The well-being and safety of IPV survivors is worsened by this lack of access to justice.

The goal of this paper is to examine how law has been used to combat IPV in fragile and conflict-affected states, and to recommend legal strategies to prevent and respond to IPV. It recognizes that law is only one tool—and that a comprehensive approach to IPV must embrace a range of legal, policy, social, and educational mechanisms. As far as we are aware, this is the first paper to review the evidence base on IPV in conflict and focus on legal reform as a potential response. In our analysis, we find substantial shortfalls in both legal enactment and implementation in fragile and conflict states, and we outline where potential gains may be realized. We also highlight innovative programs that have been applied in these settings, such as specialized courts, designated gender-based violence prosecution units, and community paralegal programs. Finally, the role of customary law—which is widespread in all developing-country contexts and especially in conflict-affected states—is examined.
“The extreme violence that women suffer during conflict does not arise solely out of the conditions of war; it is directly related to the violence that exists in women’s lives during peacetime. Throughout the world, women experience violence because they are women, and often because they do not have the same rights or autonomy as men do.”

—Elisabeth Rehn and Ellen Johnson Sirleaf, 2002

The evidence base on the prevalence, causes, effects, and responses to IPV has grown in recent years, galvanized by global commitments and grassroots advocacy. Major studies by the World Health Organization and others have contributed to this improved understanding. Building on this foundation, researchers and scholars in diverse fields, including public health, medicine, epidemiology, economics, political science, and law have investigated the nature and extent of IPV in specific settings, including fragile and conflict-affected states.

This section sets the stage by describing the current state of knowledge on intimate partner violence in fragile and conflict-affected settings. First, we review the legal status of IPV under international law and define relevant terms. Next, the scale of IPV in fragile and conflict states is analyzed using prevalence data from the Global Database on Violence against Women, a comprehensive data repository maintained by UN Women. We end with key takeaways on the prevalence and causes of intimate partner violence in conflict.

**Legal framework**

Since the adoption of the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), international treaties, standard-setting documents, and case law have created a strong—though still incomplete—legal framework around gender-based violence. This framework establishes that states are obliged to prevent and respond to various categories of gender-based violence, including IPV, and that IPV can be a violation of human rights. The failure of a state to act with due diligence to prevent, investigate, or punish acts of gender-based violence and IPV may itself breach legal duties under international law.

CEDAW was a milestone in establishing the rights of women in international law. The treaty has been joined by 189 parties and requires them to “pursue by all appropriate means and without delay a policy of eliminating discrimination against women.” The original CEDAW treaty did not explicitly provide duties related to gender-based violence, but the UN CEDAW Committee subsequently established them in 1992 with General Recommendation 19, which specifies that “discrimination,” for the purpos-
es of the treaty, includes “gender-based violence” such as “violence ... that affects women disproportionately.”

States violate CEDAW where they “fail to act with due diligence” to prevent, investigate, and punish acts of gender-based violence.

General Recommendation 35, adopted in 2017, affirms that the prohibition on violence against women is now a rule of customary international law, binding states whether or not they have joined specific treaties.

The 1993 Declaration on the Elimination of Violence against Women, although not formally enforceable because it is a resolution of the UN General Assembly, also drew attention to the situation of women in conflict. DEVAW defined violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life.”

DEVAW calls on states to exercise due diligence in preventing, investigating, and punishing acts of violence against women committed by both public and private actors.

The Vienna Declaration and Program of Action—also adopted in 1993, largely in response to the calls of civil society activists—put women’s rights firmly on the human rights agenda for the first time and explicitly recognized violence against women as a human rights violation.

It was soon followed with similar commitments in standard-setting documents, such as the 1995 Beijing Platform for Action, and in regional instruments, such as the 1994 Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women. The UN Security Council’s Women, Peace, and Security resolutions have also focused international attention on violence against women in conflict, although the focus has tended to be on devastating violence committed by armed actors, such as rape used as a “weapon of war,” which is distinct from IPV.

The due-diligence standard was expressed concisely by the Inter-American Court of Human Rights in Velasquez Rodriguez v. Honduras, which held that a state may be responsible for the illegal act of a private person because of its lack of due diligence in preventing or responding to the illegal act.

In 2001, the Inter-American Commission on Human Rights applied this principle to a case of domestic violence, where it found that the Brazilian government had consistently failed to punish IPV perpetrators.

In 2005, the CEDAW Committee in A.T. v. Hungary held that the government of Hungary was responsible for its failure to prevent acts of domestic violence.

Although once regarded as a private matter, IPV under the obligation of due diligence is a matter of public concern that requires states to act.

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violence, punish perpetrators of violent acts, and compensate victims of violence."

**Box 1. Defining Intimate Partner Violence**

For the purposes of this paper, we focus on intimate partner violence as acts of physical or sexual violence inflicted by a current or former partner. Physical violence includes, among other acts, slapping, hitting, punching, and use of a weapon such as a knife or gun. Sexual violence includes being forced to engage in sexual intercourse against one's will, as well as other forms of coercive, degrading, or unwanted sexual contact. The generally accepted international definition of IPV also includes acts of psychological and economic violence. Different data sources use varying definitions of intimate partner violence. UN Women’s Global Database on Violence against Women, for example, tracks physical and sexual violence only. This report draws heavily on the UN Women database because it is reliable and includes data for a large number of countries. However, it is worthwhile to note that, under the broader definition of IPV accepted by the international community (which includes psychological and economic violence), the IPV rates given in this report are likely under-reported.

**Intimate partner violence in conflict**

Even in settings characterized by high rates of violence and risk, the prevalence of IPV exceeds other forms of violence. The emerging evidence base shows that—even in war—many women are most unsafe at home.

One way to illustrate this is by comparing the number of women who experience IPV with the number of conflict-related fatalities in individual conflicts. This comparison is not meant to diminish the tragedy or scale of death in these conflicts. However, while conflict-related fatalities are justifiably a principal focus of governments and humanitarian actors, other acts of violence, especially violence traditionally thought of as a private matter, receive far less attention.

Women in conflict-affected settings experience IPV in numbers that far exceed conflict-related fatalities (also known as battle deaths), even in some of the world’s most deadly conflicts. Table 1 displays the annual number of battle deaths in ten countries in conflict and the number of women ages 15 to 49 who experienced IPV over a 12-month period in the closest year for which data is available. In Afghanistan, which recorded the highest number of battle deaths among the countries examined, in 2015 there were 16,581 battle deaths, while an estimated 3,490,020 women experienced IPV during that year. In the Central African Republic, 325 battle deaths occurred, while 271,960 women experienced IPV. In the Democratic Republic of the Congo (DRC) in 2014, there were 138 battle deaths, while
more than 6 million women experienced IPV. In Myanmar, in 2015–2016 there were 630 battle deaths, while 1,572,560 women experienced IPV.

Table 1. Annual Numbers of Battle Deaths versus Prevalence of Intimate Partner Violence

The number of women experiencing intimate partner violence in a 12-month period vastly exceeds the number of battle deaths in conflict-affected countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Battle Deaths</th>
<th>Women Experiencing Intimate Partner Violence (Ages 15–49) in 12 months Preceding Survey</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cote d'Ivoire</td>
<td>35 (2011)</td>
<td>1,080,640 (2011–2012)</td>
</tr>
<tr>
<td>DRC</td>
<td>138 (2014)</td>
<td>6,039,880 (2014)</td>
</tr>
</tbody>
</table>

Source: Uppsala Conflict Data Program (battle deaths); UN Women, Global Database on Violence against Women and UN Population Fund (women experiencing IPV)

Note: The years vary between 2004 and 2016 (battle deaths) and 2007 and 2016 (12-month IPV figures).

There is substantial variation in national IPV rates across fragile and conflict-affected states, as shown in Figure 1. At the high end, Afghanistan and Timor-Leste report annual IPV rates exceeding 45 percent. The Solomon Islands, Democratic Republic of the Congo, Kiribati, and Liberia also have 12-month national IPV rates well above the global average. Countries in the fragile and conflict-affected group at the low end—Togo, Myanmar, the Gambia, and Comoros—each record annual IPV rates around 10 percent. It is important to note, though, that national averages may conceal height-
ened IPV prevalence in districts within countries heavily impacted by conflict, as detailed below.

Figure 1. Fragile and Conflict-Affected States: Past-Year Intimate Partner Violence Rates (%; most recent year available)

Source: Global Database on Violence against Women, UN Women (2019)

Reports from conflict zones have long suggested an association between war and intimate partner violence. In Bosnia, sexual violence by armed actors during the war in the 1990s was followed by heightened levels of domestic violence after the conflict. More recently, humanitarian workers in Jordan have noted pervasive IPV in camps for displaced Syrian refugees. A 2012 Refugees International report found “endemic” IPV in displaced-persons camps in Jordan, Lebanon, and Turkey that was exacerbated by “the stress and overcrowding of refugee camps and apartments shared by multiple families.” A 2019 report by the Organization for Security and Co-operation in Europe surveyed “conflict-affected” women in countries including Albania, Bosnia and Herzegovina, Kosovo, and Ukraine and found that “women whose partners have fought in an armed conflict are more likely to say they have experienced violence at the hands of these partners.”

Studies have also suggested that the reintegration of American soldiers returning from deployment to conflict zones can increase the risk of family conflict and, in some cases, IPV perpetration. Box 2 describes other recent reports documenting the interaction of societal violence and IPV.
Societal violence can worsen the risk for women and increase impunity for perpetrators of intimate partner violence. Recent reports from Honduras and the Palestinian Territories illustrate this dynamic in diverse settings.

**Honduras**

In Honduras, the interaction of multiple forms of violence—from criminal gangs and from domestic partners—increases impunity for perpetrators and the danger women face from domestic abuse.

In Choloma, Glenis Vanessa Ramirez Hercules was killed by her boyfriend, a gang member, after repeated episodes of domestic violence. Her aunt reported that local police were too afraid to enter her neighborhood. The perpetrator remains free and has been seen in nearby areas. Another Honduran woman, unnamed, obtained a restraining order against her abuser from the police, but was told to deliver it to him herself. Subsequently, this woman’s body was discovered burned inside a bag along the banks of a river.

Although Honduras has enacted domestic violence legislation and a strict law against femicide, impunity is the norm for both crimes due to “corruption, incompetence, and a lack of resources or interest.” Redress for survivors has come through the actions of community activists who risk their lives to educate others about their legal rights, such as Virginia Marta Velasquez, who, in the past, has used a bullhorn to announce from the street, “We want to notify women that if your husband is hitting you, come put in a report.”


**The Palestinian Territories**

A recent United Nations report documents how 2018 civil demonstrations in the Palestinian Territories affected women and the perpetration of intimate partner violence. In Gaza, some women have reported to the United Nations that domestic abuse has “pushed” them to attend political demonstrations. According to one interviewee:

> I don’t care if I get martyred, I want to die if my kids are to get money from my life. If I want to divorce my husband and be free, my parents will never accept, they prefer that I die than obtain a divorce. I went to protest as an expression of freedom, freedom from the violence at home, the fact that I cannot divorce my violent husband, that I want my kids to live in dignity.

Women have also reported abuse by partners who blame them for injuries sustained during protests, such as a woman whose husband was injured after being struck by a gas canister at a protest: “He cannot sleep, he becomes very angry towards me in the house and towards the children. He screams and he breaks things. He is very frustrated. We live in very bad conditions. He hits the children. When he becomes violent, I leave the house.”

The UN report references the findings of psychiatrists working in Gaza that protesters, primarily young and middle-aged men, have experienced hopelessness, aggression, anger, and severe depression as a result of trauma associated with the 2018 demonstrations, and that this has “led to an increase in domestic violence.” More than half of married women in Gaza have suffered violence at the hands of a family member, and domestic violence is not explicitly prohibited by law in the Palestinian Territories.

Within conflict-affected countries, living in districts that experienced a higher intensity of conflict has been associated with increased IPV risk. A 2018 study of the Liberian conflict found that women living in conflict-fatality-affected districts were more than 50 percent more likely to have experienced past-year IPV than women living in districts unaffected by conflict fatalities, even five years after the conflict’s end—suggesting that the risk of IPV in the post-conflict period is elevated in districts where conflict was more intense.\textsuperscript{50} A 2019 study of Peru’s conflict between 1990 and 2000 found that departments that experienced the highest-intensity conflict—such as Apurimac, Ayacucho, and Huancavelica—had higher levels of IPV than less conflict-affected departments in the north.\textsuperscript{51} In Colombia, living in the most conflict-affected areas was associated with a more than 12 percentage point higher risk of IPV.\textsuperscript{52}

Direct exposure to conflict-related violence may also be a risk factor for IPV in conflict-affected settings. A 2016 Rand Corporation working paper on Peru found that women’s exposure to war violence increased their risk of both experiencing and perpetrating IPV, noting that this effect was “substantial” among women with the highest level of exposure to violent conflict events.\textsuperscript{53} In the Palestinian Territories, women whose husbands experienced political violence were at the greatest risk for psychological, sexual, and physical IPV.\textsuperscript{54} A 2012 survey of 4,501 adults in Liberia found that “exposure to war-related traumatic events” and IPV risk were significantly correlated.\textsuperscript{55} In South Sudan, women and girls directly exposed to conflict violence or displacement were two to three times more likely to report experiencing IPV.\textsuperscript{56} Along the Thai-Burmese border, women who experienced conflict victimization were more likely to report experiencing IPV within the prior 12 months.\textsuperscript{57}

Societal conflict can increase IPV prevalence through the interaction of multiple factors. The empirical literature points to mechanisms such as the normalization of violence, post-traumatic stress, harmful masculinities, economic dislocation, alcohol abuse, and the breakdown of governance and legal institutions as factors that contribute to increased IPV.\textsuperscript{58} Researchers have applied ecological models—a widely used analytical framework that examines risk factors at multiple levels, from the individual to the societal—and found that there is significant overlap in the drivers of conflict and those of post-conflict violence against women.\textsuperscript{59}

The international community has begun to acknowledge that, in addition to the “traditional” forms of violence women encounter from armed actors, IPV is a significant facet of violence in conflict and an issue that is deeply relevant to the global peace and security agenda.\textsuperscript{60} Given this recognition, the major challenge is how to better prevent and respond to IPV in fragile and conflict-affected settings. The next section examines the role of law in meeting this challenge.

“IPV is a significant facet of violence in conflict and an issue that is deeply relevant to the global peace and security agenda.”
Law is an important tool that fragile and conflict-affected states can use to prevent and respond to intimate partner violence. Yet many of these states do not have domestic legislation addressing IPV. Where laws exist, implementation is often inadequate. This means that survivors of IPV in many fragile and conflict-affected states lack adequate access to justice.

This section examines how both gaps—the lack of legislation (justice gap) and the failure to enforce and implement (implementation gap)—leave survivors in fragile and conflict-affected settings with little access to justice. It starts with the important question of whether legislation makes a difference to IPV outcomes and concludes that, in the context of fragility and conflict, it does.

**Does law make a difference?**

The international community has made substantial advances in adopting national and international laws on violence against women in the past twenty years. This progress—and how it has been slower to take hold in fragile and conflict-affected states—is detailed below. More recently, practitioners and scholars have critically examined this wave of legal reform and questioned the focus on criminal justice of early efforts. This critique has contributed to our understanding of law’s benefits and shortcomings in addressing IPV. At the same time, the law’s potential influence on societal norms and, to a lesser extent, its deterrent effect, make it a potentially powerful tool to prevent and respond to IPV in fragile and conflict-affected states.

The global surge of legislative reform, which has accelerated in the past two decades, has largely focused on prohibiting and criminalizing IPV and holding perpetrators accountable, although there are variations among and within regions. The emphasis on criminal sanctions follows the model first applied in the United States in the 1990s. Responding to public criticism that police rarely acted in domestic violence cases, state jurisdictions throughout the United States implemented mandatory arrest policies designed to ensure the prosecution of perpetrators. However, this approach has since come into question.

First, some studies have shown that policies exclusively focused on arrest and prosecution may not reduce repeat offenses or serve as an effective deterrent. For example, a widely cited early study by Garner, Fagan, and Maxwell found that arrests may not deter IPV more than other forms of police intervention, such as giving citations and warnings. Some studies have even suggested that mandatory arrest policies may increase intimate partner homicides in certain situations. Second, the perpetrator-centric
U.S. model can ignore the needs and desires of IPV survivors, such as the need for safety and security.\textsuperscript{67} Third, in many fragile and developing countries, trust for the formal legal system is lacking, leading to questions about whether implementing the U.S. model in these societies is desirable or even possible.\textsuperscript{68} For example, a study of Kenya, Liberia, Sierra Leone, and Uganda found that “mistrust of the criminal justice system” was a major barrier to prosecution.\textsuperscript{69} Fourth, where criminal laws conflict with prevalent social norms, survivors may be less likely to report abuse. In Bhutan, the designation of emotional violence as a criminal offense in 2013 domestic violence legislation may be one reason survivors are often reluctant to report.\textsuperscript{70}

This critique highlights the important point that criminal justice and accountability are not the only ways to approach the challenge of preventing and responding to IPV. Any successful strategy must involve a range of policies and programs, including the provision of social services to survivors and education and outreach designed to change harmful norms around gender.\textsuperscript{71} In Section IV, we address the ways law can be used in a more holistic way that reaches beyond criminal justice. Here, we review evidence showing that the law can make a difference.

Emerging research shows that law does matter to IPV outcomes in particular situations. For example, Klugman and Li demonstrate that, in 146 countries with available data, having domestic violence legislation was associated with a 5 percentage point lower IPV rate, controlling for national income.\textsuperscript{72} Having such legislation also bolstered the impact of laws on land ownership, loans, and property in reducing rates of IPV.\textsuperscript{73} In a global study of domestic violence laws, Richards and Haglund found that having domestic violence legislation positively impacts a broad range of indicators for gender-based equality, human development, and health.\textsuperscript{74}

In the United States, some observers credit the 1994 Violence against Women Act (VAWA) with a steep decline in the national IPV rate.\textsuperscript{75} Between 1994 and 2012, the IPV rate fell by 63 percent.\textsuperscript{76} However, this decline is similar to the decrease in violent crime overall for that period, suggesting that looking at the drop in IPV alone likely overstates the causal impact of the law.\textsuperscript{77} Nonetheless, supporters of the law note its positive impact in mandating federal funding for state and local efforts to investigate and prosecute domestic violence, as well as its financing of specially trained personnel to provide medical care to survivors and collect forensic evidence.\textsuperscript{78}

UN Women reports that having domestic violence laws is broadly associated with lower overall prevalence of both past-year intimate partner violence and the share of people who believe that IPV is justifiable. In countries with legislation, 10 percent of women reported past-year IPV, nearly 10 percentage points lower than the rate in countries with no legislation. Countries with domestic violence laws also had lower rates of people

“Criminal justice and accountability are not the only ways to approach the challenge of preventing and responding to IPV.”
reporting the belief that IPV is acceptable—an important predictor of IPV prevalence. Of course, correlation does not imply a causal relationship, but the UN Women data suggests an association between the belief that IPV is acceptable (or not) and whether countries have domestic violence laws. In countries with laws, just above 20 percent of respondents reported believing IPV is acceptable, while in countries without them, fully half of respondents did.

Figure 2. Prevalence, Laws, and Perceptions of IPV

The existing evidence on how to prevent and respond to IPV in fragile and conflict-affected settings is limited. Research on what works is somewhat more available for high-income or “non-conflict” settings, though it is still scanty.

This literature points to several pathways by which law can improve outcomes in the context of fragility and conflict:

- **Social norms:** Changing underlying norms and unequal power structures is one of the most effective ways to reduce IPV prevalence. Harmful social norms—such as the belief that a husband has the “right” to physically discipline his wife—are a key factor leading to IPV. The enactment of IPV legislation can send a clear message that violent behavior is socially unacceptable. The law can also influence people’s definition of what behavior constitutes violence and whether such conduct is desirable.
◆ **Protection:** Law can also provide protection for IPV survivors. Commonly used mechanisms, such as civil protection orders and temporary restraining orders, offer an alternative to criminal prosecution and facilitate relatively quick access to protective measures—such as barring a perpetrator from the home—for survivors.

◆ **Deterrence:** The deterrent effect of domestic violence laws has been called into question by research showing that legislative prohibitions may not decrease IPV recidivism. Nevertheless, it is possible that the potential for criminal prosecution may deter perpetrators in some cases. Especially in states where until recently no legal sanctions for IPV existed, the potential deterrent effect of criminalizing IPV remains an important factor when discussing legal reform.

◆ **Sanctions and sanctuary:** A widely cited collection of ethnographic studies on domestic violence among indigenous and industrializing groups from 1992 found that strong sanctions (laws or community norms) and sanctuary (shelters or family/social support) were key factors in societies with the lowest rates of IPV. This “sanctions and sanctuary” framework suggests that law can play an important role by sanctioning IPV and providing sanctuary, as in laws mandating funding for domestic violence shelters.

Finally, an unintended testimonial to the potential power of law is the fierce resistance domestic violence legislation often faces, especially among groups that perceive such legislation as opposed to “traditional” cultural norms. In Liberia, for example, enactment of a permanent domestic violence law was for years prevented by the opposition of legislators who viewed it as contrary to traditional cultural practices. If adopting an IPV law did not send a powerful signal about society’s norms and its rejection of certain behavior, it is unlikely that the legislation would inspire such fervent opposition.

*The justice gap*

The past three decades have seen widespread adoption of laws on IPV globally. In 1976, the United Kingdom enacted the world’s first domestic violence legislation. By the early 1990s, still only a handful of countries had enacted national laws, but civil society activism exemplified by the 1995 Beijing Platform for Action created pressure for reform. A major UN study on women, war, and violence by Elisabeth Rehn and the future president of Liberia, Ellen Johnson Sirleaf, in 2002 noted that by that time 45 countries had legislation protecting women from domestic violence.

Since the Rehn and Sirleaf report, the pace of reform has accelerated. Between 2008 and 2017, 47 countries adopted laws on domestic violence. As Table 2 shows, countries in every region enacted legislation on domestic violence during this period, including 14 countries in sub-Saharan Africa.
Figure 3 illustrates the global pace of reform. Worldwide, the percentage of countries with domestic violence laws was quite low through the 1980s and early 1990s. The percentage began to climb slowly in the mid-1990s and increased dramatically since that time, spurred by a wave of reform in the early aughts that took place globally but was centered in regions such as Latin America and the Caribbean. In 2005, the global percentage of countries with laws on IPV climbed above 50 percent. The number of countries with legislation continued to increase exponentially during the first two decades of the 21st century.

### Table 2. 47 Countries Adopted Domestic Violence Laws Between 2008 and 2017

<table>
<thead>
<tr>
<th>Region</th>
<th>Countries that introduced domestic violence legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Asia &amp; Pacific</td>
<td>Fiji, Kiribati, Marshall Islands, Palau, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Vanuatu</td>
</tr>
<tr>
<td>Europe &amp; Central Asia</td>
<td>Azerbaijan, Belarus, Hungary, Kazakhstan, Latvia, Lithuania, Montenegro, North Macedonia, Tajikistan, Ukraine</td>
</tr>
<tr>
<td>Latin America &amp; Caribbean</td>
<td>Suriname</td>
</tr>
<tr>
<td>Middle East &amp; North Africa</td>
<td>Algeria, Bahrain, Lebanon, Saudi Arabia</td>
</tr>
<tr>
<td>OECD high income</td>
<td>Belgium, Denmark, France, Iceland, Netherlands</td>
</tr>
<tr>
<td>South Asia</td>
<td>Bangladesh, Bhutan, Nepal, Pakistan</td>
</tr>
<tr>
<td>Sub-Saharan Africa</td>
<td>Angola, Benin, Burundi, Cabo Verde, Comoros, the Gambia, Guinea-Bissau, Kenya, Maldives, Mozambique, Rwanda, São Tomé and Príncipe, Uganda, Zambia</td>
</tr>
</tbody>
</table>

Source: Adapted from World Bank, Women, Business and the Law (2019)

Today, more than three in four countries worldwide have adopted domestic violence laws. Among the 189 countries included in the World Bank’s annual *Women, Business and the Law* report, 145 now have some form of legislation explicitly outlawing intimate partner violence. In the aggregate, the world has seen major progress in the enactment of laws criminalizing violence and providing formal legal protection to survivors.
Fragile and conflict-affected states are lagging on this front, despite the fact that a growing number of them have adopted laws since 1990, when Comoros introduced domestic violence legislation. In the past decade, Burundi, the Gambia, Guinea-Bissau, Kiribati, Kosovo, Lebanon, Liberia, Mozambique, the Solomon Islands, Papua New Guinea, and Timor-Leste have adopted laws, bringing the total number of countries currently on the World Bank’s “fragile states” list with legislation to 14 (out of 36), as shown in Figure 4. However, the proportion of fragile and conflict-affected states with domestic violence laws is 38 percentage points lower than the global share, indicating that reform has been slower to take hold among these countries.
The disparity in legal coverage is even more stark in the states with the most severe conflict. The World Bank identifies 36 countries as fragile or conflict affected—a diverse list, although about half are in sub-Saharan Africa. In Table 3, we subdivide the World Bank list according to conflict status: fragile countries (without widespread conflict), protracted or ongoing conflict, and post-conflict. Fragile countries have weak institutions, poor governance, and political instability. Countries with protracted conflict are currently experiencing ongoing conflict, while post-conflict countries have emerged from conflict and have peace agreements in place.
Unsurprisingly, perhaps, the justice gap with respect to IPV is greatest among countries currently experiencing protracted conflict. Only two of these countries—the Central African Republic and Lebanon—have laws on domestic violence, a situation that possibly reflects institutional weakness and the pervasiveness of traditional cultural practices in the other states experiencing protracted conflict. In contrast, fragile and post-conflict countries are more likely to have enacted reforms, though they still lag behind the global average.

None of the three countries with ongoing conflicts in which battle deaths exceeded 10,000 in the most recent year data is available —Afghanistan, Iraq, and Syria—has a law that specifically addresses domestic violence. Legal protection for survivors of IPV is lowest in these countries because of the combined absence of statutory law and, in some areas, functioning legal institutions.

Civil society groups have been an important driver of legal reform around the world, including in the low-income, fragile, and conflict-affected states where IPV laws have been adopted. A study of global legal reform by Htun and Weldon concluded that feminist advocacy was “the most important and consistent factor driving policy change” around gender-based violence. For example, in Ghana, the Ark Foundation, a women’s leadership group, organized a coalition of state and nonstate actors to push for a national action plan on the 2007 Domestic Violence Act and to monitor its implementation. In the Philippines, civil society activism led to the adoption in 1997 of legislation criminalizing certain acts of violence against
women and in 2004 of the Anti-Violence against Women and Their Children Act, which criminalizes all forms of violence, mandates compliance with treaties such as CEDAW, and provides for both criminal and civil legal actions. In Mongolia, two women’s rights nongovernmental organizations (NGOs) were instrumental in pushing the legislature to enact reform on domestic violence in 2004. In 2013, Nigeria’s Legislative Advocacy Coalition on Violence against Women successfully contributed to the enactment of a law providing stronger protection for victims of abuse.

**The implementation gap**

Implementation and enforcement is a critical challenge in fragile and conflict-affected states. First, customary norms and informal justice systems tend to play a pronounced role in many conflict-affected settings. In South Sudan, for example, the customary justice system, which is recognized in the national constitution, is the only legal forum available to most women. These norms and systems sometimes support cultural practices and approaches to dispute resolution at odds with the effective implementation of formal legislation and international human rights standards. Second, the breakdown of governance and legal institutions during conflict erodes access to justice broadly. A prominent example is Somalia, where decades of conflict have been accompanied by the absence of a centralized state able to fulfill basic governance functions, such as dispute resolution and the provision of public goods. We now turn to explain the nature of these gaps.

**Customary law and informal justice systems**

Customary law and informal justice systems are an important feature of fragile and conflict-affected settings, as well as developing states broadly. In societies where legal and justice institutions have broken down, customary mechanisms may supplant the formal legal system. A 2011 study of conflict-affected settings—including Afghanistan, Guatemala, Iraq, Liberia, Mozambique, South Sudan, and Timor-Leste—for example, concluded that customary mechanisms in those societies were frequently perceived as more aligned with local culture and politics, and therefore more responsive to the needs of community members.

Because customary justice systems predominate in fragile and conflict states, any effort to use the law to prevent and respond to intimate partner violence must involve such systems. Interestingly, many anti–domestic violence advocates in the United States increasingly look to transformative justice approaches, some of which mirror customary justice systems, as an avenue for accountability that avoids ingrained racism and misogyny in the criminal legal system.
Customary justice can increase survivors’ well-being, but it is also important to recognize the ways in which it can contribute to harmful practices around IPV, especially in fragile and conflict settings:

- **Customary norms may tolerate IPV or treat it as a private matter:** In 52 developing countries around the world, for example, one in three women believes that a husband is justified in beating his wife if she “goes out without his permission.”\(^9\) In Melanesia, where gender-based violence is a significant problem, IPV is “not seen as a serious issue worthy of community-level adjudication.”\(^10\) In Somalia, *Xeer*, a customary system of law maintained by clans, similarly views IPV as a personal, rather than a public, matter.\(^1\) In societies where customary norms predominate, we would expect reporting of violence to be low, because some women may not perceive violent behavior as unacceptable.

- **Customary dispute-resolution mechanisms afford women limited decision-making opportunities:** Customary systems often limit the ability of women to effectively advocate for outcomes aligned with their rights. For example, although Somalia’s *Xeer* system in general welcomes any member of the public to assist in adjudicating a dispute, it excludes women (as well as relatives of a party to the dispute).\(^2\)

- **Commitment to customary norms inhibits adoption of legislation:** In Liberia, the national legislature was for years unable to pass a law on domestic violence, primarily due to the vehement opposition of lawmakers who viewed the proposed law as opposed to traditional cultural practices because it prohibited female genital mutilation (FGM). When a law was finally enacted in 2019, the FGM provision was removed from the legislation despite objections from officials who argued that this weakened the law’s protection of women’s rights.\(^3\)

- **Customary systems of justice supplant formal legal guarantees:** Even where formal laws exist, enforcement may be weakened where traditional approaches persist. In Afghanistan, the 2009 Law on the Elimination of Violence against Women mandates that the government investigate and refer for prosecution complaints involving five specific offenses, including rape and enforced prostitution (although not domestic violence).\(^4\) A May 2018 UN report, aptly titled *Injustice and Impunity*, concluded that enforcement of the law was seriously inadequate due to the continued widespread use of customary mediation in cases of violence against women. The adjudicatory authorities, despite the provisions of the 2009 law, continued to refer cases of gender-based violence to customary dispute resolution, which prioritized keeping family units together above protecting IPV survivors.\(^5\)
Customary systems of justice are an important feature of fragile and conflict-affected settings. These systems operate when legal institutions no longer function and may be perceived as more legitimate than the formal justice system. However, customary justice and informal dispute resolution can impede access to justice for survivors of intimate partner violence. On the other hand, customary and informal mechanisms have also been used to advance women’s interests. This report highlights cases of the positive use of customary justice in Section IV, which explores promising innovations in addressing IPV in fragility and conflict.

The breakdown of governance and legal institutions in conflict

Unsurprisingly, formal institutions of law and governance break down or cease to exist altogether in societies experiencing prolonged violent conflict. The extent to which this happens depends on, among other factors, the duration of the conflict, the extent of ethnic, religious, or other inter-communal tensions, and the loss of territorial control.106

Examples of this type of breakdown include Iraq and Sierra Leone. In the early years following the 2003 invasion of Iraq, “almost every aspect” of the justice system reportedly broke down due to overburdened courts unable to process cases; police unable or unwilling to gather evidence; widespread due-process violations, including cursory criminal trials and inadequate provision of defense lawyers; and the threat of violence from militants and other armed actors inhibiting victims from taking legal action.107 The justice system remains deeply corrupt and bereft of resources.108

In Sierra Leone, a World Bank assessment following the country’s ten-year civil war found that the justice system had been “decimated,” noting that many courts and judicial living quarters were destroyed, judges had been singled out for violence by the Revolutionary United Front rebel group, and that, in the immediate post-conflict period, the courts did not have a single computer to assist in processing cases.109

Key factors leading to the breakdown of governance and legal institutions in conflict and post-conflict states include:

◆ **Lack of resources:** Governments in fragile and conflict-affected states have limited budgetary resources for competing priorities. For example, Liberia’s 2018–2019 national budget was approximately 570 million dollars—roughly one-third of the budget of Minneapolis, a midsize city in the United States.110 During and after conflict, these serious funding constraints can hamper the effective operation of courts and law enforcement. Police in Kenya, Liberia, Sierra Leone, and Uganda have cited insufficient transport due to budget limitations as a major impediment to their ability to collect evidence and interview witnesses and survivors.111 In Timor-Leste, the justice system had “close to no capacity” five years after the conflict, due in part to a lack of funding to rebuild legal institutions.112
◆ **Access to police:** In addition to challenges created by underfunding, the police may have participated in the conflict themselves or may engage in harmful practices that discourage survivors from seeking their help. In Afghanistan, for example, police have used “abusive investigatory techniques,” including virginity testing, in cases of violence against women. In Liberia, confidence in the national police was undermined by the participation of many police officers in the conflict.

◆ **Court infrastructure:** When a special tribunal to prosecute crimes against humanity was created in Sierra Leone, staff of the court and prosecutor were tasked with establishing a courthouse, because there were no suitable buildings in Freetown. The destruction of the physical infrastructure of courts in conflict settings limits access to justice.

◆ **Absence of judges and other personnel:** War and fragility also undermine the human capital upon which legal institutions depend. Judges and magistrates, along with other members of the elite, may be among the first to flee a deteriorating situation as insecurity worsens. In Sierra Leone, armed groups targeted judges and lawyers if they were perceived as opponents to their cause. The Pakistani Taliban has also claimed responsibility for numerous attacks on judges. In 2016, a suicide bomber in Quetta killed 74 people, mainly lawyers and judges, in an attempt to assassinate a judge who ultimately escaped the attack.

◆ **Forensic science and medicine:** Fragile and conflict-affected states often lack professional forensics laboratories and staff trained to conduct investigations based on forensic science, undermining their capacity to collect and analyze the evidence upon which criminal investigations depend. International assistance can enhance investigatory capacity and decrease use of less-reliable methods. In Haiti, forensic experts from Argentina assisted in the prosecution of a 1994 massacre, resulting in the first use of forensic evidence in a Haitian courtroom and the conviction of the perpetrators.

◆ **Corruption or bias in law enforcement and the justice system:** Police and judicial corruption, as well as bias against a particular political, ethnic, or religious group, impedes access to justice in many fragile and conflict states. Mistrust of the justice system, especially among poor, rural, and conflict-affected populations, may cause individuals to choose informal dispute resolution and customary law over formal legal institutions. For example, during the conflict in Northern Ireland, Catholic women reported that the Royal Ulster Constabulary was unresponsive to their calls, perhaps because the police feared venturing into Catholic communities, which impeded women’s ability to access justice for domestic violence.
◆ **Freedom of movement:** Court infrastructure in fragile and conflict states, if it exists at all, is often limited to specific areas, such as the capital city. Violence, physical insecurity, and lack of resources prevent populations from accessing law enforcement and legal institutions. Destruction of roads and the presence of landmines, especially common in farm regions, may in particular prevent people in rural areas from making the trip to court. Lack of transportation and road infrastructure can also impede the ability of police to conduct investigations.

The mistrust of the formal legal system caused by the breakdown of governmental and legal institutions, combined with the primary reliance on customary norms and informal institutions to address disputes, can reduce women’s likelihood of reporting IPV. “Social norms and systems that are not responsive to women’s needs” can also serve as barriers to reporting incidents of domestic violence. Worldwide, only about 6 percent of women who experience violence report it to governmental or religious authorities. In Bolivia, Burkina Faso, Haiti, Mozambique, Nigeria, and Zimbabwe, an analysis of Demographic and Health Survey data found that fewer than 1 percent of women who experienced violence reported it to the police. The barriers to reporting in the formal legal system underline the importance of engaging customary authorities, such as village elders or community leaders. For example, in Bhutan, community volunteers work to increase reporting by coordinating with village leaders and law enforcement in cases of domestic violence.

**Summing up: The role of law in fragility and conflict**

Fragile and conflict-affected states experience both a justice gap and an implementation gap in relation to laws on intimate partner violence. First of all, while many countries have recently enacted domestic violence laws, this trend has not reached most fragile and conflict states. Second, where laws do exist, implementation is often partial or inadequate due to the breakdown of governmental and legal institutions, as well as the predominance of customary law and informal justice in fragile settings. Addressing the justice and implementation gaps has the potential to yield major benefits in fragile and conflict states, a conclusion bolstered by an emerging evidence base showing that, in particular situations, law matters to IPV outcomes.
This section examines promising practices that have been used in fragile and conflict states to improve access to justice for survivors of intimate partner violence. The strategies explored here offer an encouraging indication that, despite the many challenges to enactment and implementation, there are opportunities to enhance access to justice for IPV survivors in these countries. There is accumulating evidence about these strategies—however, there is a dearth of rigorous evaluations, and reports tend to be anecdotal or fail to trace impact in terms of IPV prevalence.

The section begins by exploring customary norms and law, which, if conducted in line with international human rights standards, can be an important tool to enhance access to justice. It then examines innovative mechanisms used to deliver justice and prosecute cases in the formal legal system—such as specialized courts, mobile courts, and designated gender-based violence prosecution services—as well as tools to offer protection to survivors, including civil protection orders and shelters.

In fragile and conflict states, the vulnerability of many women to IPV is exacerbated by institutional breakdown and dominant traditional cultural practices. The mechanisms presented here are not a panacea to end IPV, which is often widespread and deeply entrenched in these settings. However, if applied in concert and with sensitivity to local conditions, they offer a concrete opportunity to strengthen legal protection and access to justice.

**Engaging customary norms and systems of justice**

Customary systems of justice are a pervasive feature of fragile and conflict settings. These systems may be the only available means to resolve disputes when other government and legal institutions have collapsed. They may also garner more trust than institutions in the formal legal system, which are often perceived as corrupt or biased. Unfortunately, customary norms and dispute-resolution mechanisms frequently serve as an obstacle to IPV survivors seeking justice (see Section III of this report). Below are positive examples where customary norms and dispute resolution have been used to benefit women and survivors of gender-based violence by fostering access to justice.

First, the inclusion of women within customary dispute-resolution bodies can ensure that women influence the agenda and, in some cases, the adjudication of disputes involving intimate partner violence. In Papua New Guinea, for example, evidence suggests that an ambitious effort to recruit female magistrates to the village court system—a network of 1,414 community-level courts—has produced tangible benefits for women in domestic violence cases by increasing survivors’ access to the court system and
exerting a positive influence on gender norms. In Liberia, women community leaders mediate cases, including some involving IPV, through the Peace Huts—dispute-resolution forums governed exclusively by women (see Section VI). As these examples show, the positive use of customary mechanisms often involves reforming traditional, male-dominated spaces to become more open to the involvement of women.

Second, community paralegal programs are increasingly used by grassroots groups and international organizations to enhance access to justice in settings around the world. Community paralegals are trained in relevant national and customary law, drawing on knowledge of local customs to act as a bridge between the formal legal system and traditional groups. A major focus is on legal empowerment and educating people about their rights in both systems. Where a case merits referral to a formal court, a community paralegal can assist a survivor to navigate the process. In Nepal, paralegal committees made up of local women educate other women about their legal rights and “challenge the culture of silence” regarding the abuse of women. In Pakistan, community paralegals trained by the Shirkat Gah Women’s Resource Centre significantly influenced government deliberations on women’s legal status in the 1990s by highlighting gaps in women’s property rights.

Third, in areas where customary law is prevalent, education and awareness is critical. Lack of awareness of women’s legal rights is a significant barrier to accessing justice. In Uganda, guides to customary law that incorporate human rights standards, such as Administering Traditional Justice in Acholi: Case Management Handbook, have been used to train community paralegals and religious leaders. Raising Voices’ SASA! program, also in Uganda, focuses on community mobilization and convening discussions around harmful gender norms in order to alter behavior such as intimate partner violence. The SASA! program now exists in more than 20 countries and has been used in a diverse range of settings, including displaced-persons camps. Grassroots groups and NGOs have used innovative devices such as guidebooks, street performances, literary classes, and other forms of educational outreach in settings including Bangladesh, Cambodia, Indonesia, Malawi, and Timor-Leste with reported success.

Engagement with customary norms is critical to any effort to increase access to justice for IPV survivors. Where women are informed of their legal rights, they will be more likely to report instances of abuse in the formal justice system or to customary authorities—though this willingness to report may diminish if women find that their cases are not investigated and the laws are not enforced. Because harmful norms hamper acceptance of formal laws on domestic violence, transforming them is also necessary for the successful implementation of formal legislation. Initiatives such as education and outreach, community paralegal programs, and customary dispute resolution that incorporates the voices of women all offer the potential to positively impact beliefs and behavior around intimate partner violence.”
resolution that incorporates the voices of women all offer the potential to positively impact beliefs and behavior around intimate partner violence.

Specialized courts

Specialized courts to handle intimate partner violence and/or other forms of gender-based violence have been created in jurisdictions across the world. Brazil, Nepal, Spain, the United Kingdom, Uruguay, and Venezuela, as well as several states in the United States, have established specialized domestic violence courts. Several conflict-affected states, including Guatemala, Liberia, and Sierra Leone have specialized courts to handle gender-based violence cases. The UN Handbook for Legislation on Violence against Women recommends the creation of such specialized tribunals. The purpose of these courts is to enhance access to justice by ensuring judges and court personnel are knowledgeable about relevant laws and human rights standards, providing safe and discreet court hearings, and facilitating speedy case processing.

Specialized courts have taken diverse approaches to achieving these goals. In Liberia, 2008 legislation established Criminal Court E, which exclusively hears cases involving a list of specified sexual offenses, including acts which can constitute domestic violence such as rape and sexual assault. Criminal Court E is examined in more depth in the case study on Liberia in Section V below. In Guatemala, also in 2008, legislation mandated the creation of specialized courts with judges specially trained in legal issues related to gender bias and violence. Some of these courts are open 24 hours to allow survivors the broadest opportunity for access. In Sierra Leone, specialized Saturday courts were set up to allow survivors access to the court system on a day of the week when courts are quiet and confidentiality is greatest.

These courts represent a meaningful stride in enhancing justice for survivors. By creating a dedicated forum for cases of gender-based violence, they affirm society’s recognition of the seriousness of certain crimes and institutionalize legal knowledge among jurists with deep experience adjudicating these types of cases. At the same time, it is important to note the criticism of anti-domestic violence activists in other contexts, such as the United States, who have documented how criminal justice systems characterized by racial and gender bias often fail to deliver fair outcomes and can further marginalize survivors. Laws establishing specialized criminal courts for domestic violence in fragile states should minimize the risk of this by, for example, providing civil remedies that survivors can seek whether or not a criminal process has been initiated.

Specialized courts also face significant capacity challenges, including a lack of funding, absence of forensic science capabilities, and limited geographic reach. By 2018, for example, only half of Guatemala’s regional departments had a specialized court as mandated by the 2008 law. The creation of specialized courts also involves the risk that their existence will allow other actors in the justice system to shirk responsibility for cases of gen-
der-based violence.\textsuperscript{142} Implementation of specialized courts must take care to avoid such “specialized access to justice” issues associated with these otherwise promising mechanisms.

\textit{Mobile courts}

Mobility is a serious barrier to justice in many fragile and conflict-affected states. Destroyed transportation infrastructure and continued violence inhibit free movement—which may be challenging for poor and rural populations even in peacetime—to urban centers, where courts tend to be located. Mobile courts, temporary courts set up in rural and conflict-affected regions, offer access to justice for populations cut off from other forums. In the Democratic Republic of the Congo, a successful mobile court program has focused on remote and conflict-affected areas in the east, including North Kivu, South Kivu, and Maniema. This region has been heavily impacted by sexual violence and, by mandate, around 75 percent of cases heard by the mobile courts involve rape.\textsuperscript{143} In Somaliland, mobile courts set up in five regional capitals by the UN Development Programme and the Ministry of Justice reported that women are among the courts’ biggest users.\textsuperscript{144}

International support for mobile courts in the form of money and expertise is critical. The DRC mobile court program, for example, is a collaborative effort of the American Bar Association, the Open Society Foundations, and Congolese and other international NGOs.\textsuperscript{145} Results from the DRC example are encouraging, although—because IPV has not been addressed in domestic legislation—it is unclear if these courts are being used to address IPV cases in addition to other forms of gender-based violence.

\textit{Designated prosecution units}

Designated units to prosecute gender-based and sexual violence can enhance access to justice for IPV survivors. Similar to specialized courts, these units consist of specially trained professionals—prosecutors, investigators, and support staff—steeped in the legal and investigatory issues that arise in cases of gender-based violence. A prominent example is Liberia’s Sexual and Gender-Based Violence Crimes Unit (SGBVCU), a division of the Ministry of Justice dedicated to handling crimes under the 2009 law on sexual violence. The benefits of specialized prosecution units include institutional knowledge and serving as an access point to the justice system for survivors. The specialized prosecution unit, as in the case Liberia’s SGBVCU, may also include victims advocates and mental health staff to ensure a holistic approach to cases of sexual violence.

\textit{Civil protection orders}

Civil protection orders are an alternative to a criminal-law approach and are designed to offer immediate relief to survivors threatened with violence. A survivor of IPV may seek a civil protection order from the court requiring, for example, that a perpetrator to stay away from the survivor or out of the home. Civil protection order proceedings involve a lower standard of proof, so survivors may be more likely to prevail than in criminal
matters. This can be especially helpful in settings where obtaining evidence is challenging due to the absence of professional investigators and forensic scientists. Protection orders do not result in jail terms for perpetrators (unless they are violated), which in some cases may align more closely with the wishes of survivors.

Civil protection orders have been used successfully in fragile and conflict-affected settings. In Papua New Guinea in 2009, district courts began issuing interim protection orders to give immediate relief to survivors. In the Philippines, the authorities in some areas issue “barangay protection orders,” a local form of temporary restraining order, which do not require a court proceeding and remain in effect for 15 days. Research has shown that protection orders in the United States “reduce repeat violence for some victims some of the time.” The evidence base on protection orders in fragile and conflict states is much more limited. An important question is whether these states have the judicial and police capacity to reliably enforce protection orders.

**Shelters and “one-stop” centers**

A major risk to IPV survivors in fragile and conflict-states is women’s inability to find an alternative living situation that would allow them to leave their abusive partners. The breakdown of traditional social networks and other support mechanisms, as well as extreme insecurity due to armed conflict, diminish survivors’ capacity to leave, even when they face significant risk at home. Shelters—designated safe spaces for survivors—can help survivors depart dangerous home settings. A study by the University of California at Berkeley found that a range of shelter types exist for displaced persons impacted by sexual and gender-based violence in conflict settings, including traditional safe houses, independent living arrangements, and alternative-purpose entities (such as churches or police stations that have provided areas for survivors). The report concluded that in conflict settings “having a diversity of safe shelter options” is ideal to respond to the array of security issues survivors experience. Legislation mandating establishment and funding for shelters can help to ensure this.

One-stop centers provide survivors with medical services—such as the provision of emergency contraception or antiretroviral drugs, psychological counseling, legal advice, and social services—in a single location. By gathering these services in one place, the aim is to improve outcomes for survivors and to increase access to justice. Studies have found that best practices include providing ambulances or covering transportation costs for survivors; 24-hour, seven-day-per-week access; and the provision of long-term psychological care. Measures to reduce the stigma associated with sexual violence, a common barrier to reporting and use of services in fragile and conflict states, can also increase one-stop centers’ impact. One-stop centers, existing either within hospitals or as stand-alone facilities, have been established in Kenya, Liberia, and South Africa, among other locales.
This section examines Liberia, which emerged from 14 years of civil war in 2003. Since the end of the conflict, the Liberian government has sought to implement legal reforms and initiatives aimed at addressing gender-based violence, including IPV, and to increase access to justice for survivors. In August 2019, the government enacted a law on domestic violence.

The case study is based on the literature and on interviews with actors with experience in key legal and civil society institutions, including the Ministry of Justice, the Ministry of Gender, the Law Reform Commission, survivors’ groups and shelters, and international organizations. It is also informed by two brief public conversations between researchers at Georgetown University and President Ellen Johnson Sirleaf reflecting on, in part, the efforts of her administration, which concluded in 2018, to address IPV through legal reform.

The case study begins with context on the Liberian conflict and its destructive impact on the Liberian legal system. Second, it examines recent evidence linking high rates of intimate partner violence in Liberia with the legacy of the conflict. Third, it explores the role of customary law in cases of IPV. As in many fragile and post-conflict states, in Liberia customary law plays a prominent role in the resolution of disputes. Fourth, the case study assesses issues in the formal legal system, including the special court for sexual violence, forensic evidence, and the implications of the long fight to enact permanent domestic violence legislation. Liberia has made some progress in increasing access to justice for IPV survivors, but its experience also illustrates the considerable challenges in enactment and implementation encountered by the governments of fragile and conflict-affected states.

**Context and background**

Liberia experienced two civil wars between 1989 and 2003. In 1989, rebel forces led by the warlord Charles Taylor began an uprising against the government of dictator Samuel Doe. Although Doe was quickly removed from power, fighting between rival factions continued until Taylor was elected president in 1997. Violence never completely abated and, in 1999, Liberia’s second civil war began. During 14 years of conflict, sexual violence was perpetrated by all sides.\(^{154}\) The war, along with the conflict in neighboring Sierra Leone, became synonymous with the use of child soldiers and widespread violence against noncombatants. It is estimated that approximately 250,000 people were killed.\(^{155}\)

A peace deal removing Taylor from power was brokered in 2003. The activism of women across the country, who used nonviolent resistance to demand a cease-fire and peace negotiations, was instrumental to the
establishment of peace. Following a brief transitional government, Ellen Johnson Sirleaf was elected president in 2005. In a keynote address the following year, President Sirleaf affirmed her administration’s commitment to women and declared that “we are drafting new laws and increasing the weight of laws that promote women’s rights and deal drastically with crimes against women. We will enforce, without fear of failure, laws against rape recently passed by the national legislature.” Symbolizing this commitment, the Sirleaf administration changed the inscription on the Temple of Justice, Liberia’s highest court, from “Let Justice Be Done to All Men” to “Let Justice Be Done to All.”

The postwar Liberian government used domestic legal reform as a key strategy in the effort to combat gender-based violence. In 2005, the legislature passed a law on rape, which amended the penal code to broaden its definition, raise the age of consent to 18, and specify that certain cases, such as the rape of a minor, are punishable by life in prison. At the same time, a special division of the national police, the Women and Children Protection Section (WACPS), was established to investigate cases of violence against women, sexual violence, and child abuse. In 2008, the government established a special court (Criminal Court E) to hear cases involving sexual offenses, including rape, as well as a specialized unit to prosecute sexual and gender-based violence within the Ministry of Justice.

Liberia is a state party to international treaties obligating it to take steps to address human rights violations, including gender-based violence and IPV. In 1984, Liberia acceded to CEDAW, which requires parties to “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.” Discrimination under CEDAW includes acts of violence against women such as IPV. The Liberian government’s policy commitments on sexual and gender-based violence include 2006’s Plan of Action on SGBV and 2009’s National Action Plan on the Implementation of Security Council Resolution 1325 (NAP). The NAP singles out the prevention of all forms of violence against women as a strategic priority, including the enactment of a law on domestic violence.

Liberia’s past-year rate of intimate partner violence for 2007, the most recent year for which data is available, is 35 percent, well above the average both globally and for fragile and conflict states. Recent studies link continuing high rates of IPV and other forms of gender-based violence to the legacy of the Liberian conflict. For example, a 2018 study found that living in a conflict-fatality-affected district in Liberia was associated with a 50 percent higher IPV risk, even five years into the post-conflict period.

Women in Liberia and Sierra Leone have reported that the conflicts there “increased the use of violence by some men, as violence for them became a normal way of responding to frustrations and challenges.” A national survey of 4,501 adults in Liberia by Vinck and Pham found that “exposure to war-related violence” increased the risk of physical intimate partner violence, which may in part be due to “the culture of impunity and weakened...
Despite the government’s legal and policy reforms, impunity for intimate partner violence remains a major concern. According to the U.S. State Department, the WACPS of the Liberian National Police reported that, in 2018, “courts dropped 50 percent of reported domestic violence cases due to lack of evidence.” Similarly, a former prosecutor interviewed for this report stated that “the use of rape and other forms of gender-based violence as a weapon of war [during the conflict] created a culture of impunity that still exists in Liberia.”

Despite the government’s legal and policy reforms, impunity for intimate partner violence remains a major concern. According to the U.S. State Department, the WACPS of the Liberian National Police reported that, in 2018, “courts dropped 50 percent of reported domestic violence cases due to lack of evidence.” Similarly, a former prosecutor interviewed for this report stated that “the use of rape and other forms of gender-based violence as a weapon of war [during the conflict] created a culture of impunity that still exists in Liberia.”

Seven hundred and thirty-seven cases of IPV were reported to the WACPS in the first half of 2018—a 32 percent increase over the same period in 2017, although still only a small proportion of actual IPV due to underreporting. A 2016 United Nations report on rape in Liberia concluded that the “complete lack of accountability for sexual violence committed during the war, coupled with limited accountability in the post-conflict period” contributed to continued high levels of sexual and gender-based violence in Liberia.

**Customary law**

Customary law is an important means by which disputes in Liberia, especially outside of the capital city of Monrovia, are resolved. The Constitution of Liberia explicitly recognizes a role for the customary legal system, stating that “courts shall apply both statutory and customary laws in accordance with the standards enacted by the Legislature.” However, the legislature has declined to enact further standards, leaving the relationship between statutory and customary law imprecisely defined. Today, Liberia has a dual legal system, in which the formal justice system works in parallel with the customary system.

Customary law in Liberia encompasses two systems: a “formal-informal” and an “informal-informal” system. The formal-informal system is made up of clan and town chiefs who receive remuneration from the government and are subject to oversight by the Ministry of Internal Affairs. If a dispute subject to customary law arises, these local chiefs will “intervene, call witnesses, assess fines, and issue judgments.”

The informal-informal system consists of community leaders who are not paid or formally regulated by the Ministry of Internal Affairs but similarly intervene in and adjudicate disputes involving issues perceived as relating to customary law. Prominent examples include the Poro and Sande cultural associations and “house palavas,” in which community elders resolve disputes. Immediately following the end of the Liberian conflict, customary dispute-resolution mechanisms arose in displaced-persons camps, such as the Conneh camp in Kakata, where councils of elders adjudicated disputes including “debt cases, domestic violence, adultery, and spousal maintenance.”

“Despite the government’s legal and policy reforms, impunity for intimate partner violence remains a major concern.”
The government discourages the use of customary dispute resolution for serious crimes, especially cases involving physical injury and rape. Nevertheless, the informal system is still used in some cases of intimate partner violence. This is especially true in rural areas, where access to formal courts is limited. According to a former prosecutor,

When a man beats his wife to the point that she's wounded, and she lives in a village several miles away from the court system, she probably does not have transportation, and probably in this village there are only one or two police officers who are ill-equipped. She's not going to take this problem to the court. She's going to take this problem to the Chief in that village.

Customary dispute-resolution processes prioritize social harmony and settlements that preserve the family unit. As a result, in cases of IPV, perpetrators may be let off with only minor sanctions, such as a token fine, and settlements may not prioritize the rights of survivors. Rape survivors, especially when the perpetrator is a family member, are sometimes pressured to accept payment from perpetrators in lieu of criminal prosecution. In some cases, the perpetrator or his family have bribed officials in the formal court system to drop cases, forcing rape survivors to seek redress from customary forums.

Customary law remains widespread and popular in Liberia for several reasons. First, the formal justice system is perceived by many Liberians, especially in rural and low-income areas, as corrupt and nonresponsive. This can lead survivors of IPV to distrust the formal system. An official with a survivors' rights advocacy group observed, “If victims don't see examples of perpetrators going through the justice system they will be discouraged. Sometimes the police will tell the survivor they need to bring money for them to carry out an arrest. Because of this, victims don't even go to the police.”

Second, state regulations, such as a proposed ban on female genital mutilation, are perceived by some groups as “an intrusion on their traditional cultural norms” and only “for the elites.”

The prominence of customary law in Liberia led interviewees to aver that making the informal system more fair and responsive is critical to improving the situation for IPV survivors in Liberia. Positive examples of initiatives utilizing customary dispute resolution to increase access to justice for survivors of gender-based violence and IPV in Liberia include community paralegal programs and Peace Huts.

In 2007, the Catholic Justice and Peace Commission, with support from the Carter Center, established the Community Justice Advisors (CJA) program. The CJA program trains community paralegals to educate people on their legal rights; assists them in interacting with the courts, governmental institutions, and customary authorities; provides mediation services; and advocates for just outcomes. As of a 2017 evaluation, community paralegals had worked to resolve more than 4,000 disputes, and each paralegal
team is equipped with mobile outreach capabilities using motorbikes to reach remote communities. 189

Intimate partner violence constitutes the majority of sexual and gender-based violence cases handled by community paralegals. 190 Paralegals are trained to advise on potential courses of action and to respect the choices of the client, both to ensure client safety and enable survivors to regain a sense of empowerment. 191 Clients may opt for a paralegal to mediate a dispute involving IPV, but paralegals are trained to decline to mediate cases involving rape and to instead refer them to the formal legal system. 192

Evidence on the impact of the CJA program on IPV outcomes is limited, but the 2017 evaluation concluded that “the CJAs are providing a needed service by addressing SGBV crimes and providing practical options for redress.” A 2015 study by researchers at Oxford University found that plaintiffs using community paralegal programs in Liberia are “significantly more satisfied with case outcomes, pay fewer bribes, and report greater food security.” 193 An important function of community paralegals is to bridge the gap between the formal and customary legal systems by informing parties of their rights under both and, when necessary, helping them to access formal legal institutions. 194

While the role of community paralegals is heavily tied to the formal legal system, Peace Huts draw on the traditional West African concept of the palava hut, a structure in which community elders and chiefs gather to mediate disputes. The Women in Peacebuilding Network, led by Nobel laureate Leymah Gbowee, originated the Peace Hut forums for women leaders to convene to discuss local problems and build peace in their communities. 195 Governmental agencies, including the Ministry of Internal Affairs and the Ministry of Gender, helped to establish Peace Huts and train women to provide mediation services in villages throughout Liberia. 196 The women mediate local disputes, including cases of intimate partner violence. 197 Cases involving serious physical abuse or rape, however, are referred to the formal legal system. 198 A key motivation for the Peace Huts was to enable dispute resolution in areas where there is no magistrate, ordinarily the point of entry into the justice system for many cases. 199 The World Bank describes the Peace Huts as “a place of sanctuary and safety for women escaping domestic violence.” 200 Although data on the number and type of disputes handled by Peace Huts is not available, qualitative evidence suggests that they have been successful both in achieving outcomes consonant with IPV survivors’ legal rights and in enabling women to have a voice in the disposition of disputes. 201

**Criminal Court E**

In 2008, the legislature amended Title 17 of the Judiciary Act of 1972 to establish Criminal Court E, a special court for sexual offenses in Montserrado County, as well as sexual-offense divisions within the circuit courts of
Liberia’s other counties. Criminal Court E has exclusive original jurisdiction over sexual offenses including rape and sexual assault in Montserrado. Under Section 25.3 of the 2008 law establishing the court, magistrates must forward cases involving sexual offenses to the appropriate circuit court within 72 hours of receiving them. The purpose of Criminal Court E is to ensure expeditious review of cases of sexual violence by judges and court personnel trained in the legal and human rights standards associated with sexual violence cases. As explored below, geographic and capacity gaps have hampered the ability of the 2008 law to fully deliver on its mandate.

Although the law requires the establishment of sexual-offense divisions in each of Liberia’s 15 counties, to date only Criminal Court E is operational. The failure to establish sexual-offense courts in each county poses a significant limitation on the effectiveness of the 2008 law. First, as described in this report, access to justice for survivors of IPV is especially limited in more remote areas due to their distance from formal courts and the prominence of customary practices. Access to justice would likely benefit most from the establishment of special courts in these areas, but they still do not have them. Second, the considerable discretion circuit court judges have over their dockets creates risk that they will fail to expeditiously process cases of IPV, either because they do not view them as urgent or because of bribes from the perpetrator or the perpetrator’s family. Third, cases of gender-based violence from outside of Montserrado County are sometimes transferred to Criminal Court E, diminishing its capacity to process its existing caseload. Lack of funding is a major obstacle to the establishment of additional sexual-offense courts in Liberia’s other 14 counties. Anecdotal reports received by the research team indicate that the government, in cooperation with international institutions, is currently working to establish such courts in Liberia’s other counties, although a precise timeline for this could not be confirmed.

Criminal Court E also faces significant capacity challenges that contribute to its backlog of cases. Previously, lack of physical space within the court prevented its two sitting judges from hearing cases concurrently and, as a result, they were only “able to try a handful of cases every year.” More recently, the court has operated with only one judge due to the death of the other judge. The absence of adequate case tracking and management tools contributes to delays in case processing. Magistrate courts frequently fail to transfer sexual-offense cases to Criminal Court E within the statutorily mandated 72 hours, partly due to a lack of resources such as a centralized database to convey case files, further delaying access to the court system in these cases.

Criminal Court E has the potential to increase access to justice for survivors of IPV and other forms of sexual violence by providing a dedicated forum for their cases. To date, geographic and capacity limitations have been an obstacle to fully delivering on this mandate, especially in areas outside of Montserrado County. The establishment of additional sexual-offense divisions in the circuit courts in Liberia’s outlying counties would help to
address this, although these courts will also contend with the capacity gaps Criminal Court E has encountered, such as lack of funding and equipment.

Evidence

A major barrier to access to justice for IPV survivors in Liberia is the lack of capacity to collect and analyze forensic evidence of physical or sexual assault. Liberia has “no capacity collect and analyze forensic evidence of rape” due to the absence of forensic science labs.\(^{211}\) When rape is reported, health officials carry out routine medical care, and law enforcement interviews the survivor. Testimonials and circumstantial evidence, as opposed to forensic evidence, form the basis of the prosecution’s case.\(^ {212}\) Where witnesses or circumstantial evidence are not available, however, the prosecution will lack sufficient evidence—such as forensic testing to determine the identity of a perpetrator of sexual assault, for example—to prove guilt “beyond a reasonable doubt.”\(^ {213}\)

As a result, many rape cases are either dismissed via nolle prosequi motions or “remain pending without any trial or follow-up”\(^ {214}\) (itself a potential violation of the accused’s right to due process). Funding of forensic facilities is a significant challenge. Simply establishing a lab is not enough. For the lab to have a positive impact, its ongoing operation must be funded, a commitment that the government or international donors may be wary to take on.\(^ {215}\)

The challenge to accountability posed by lack of evidence was noted by multiple interviewees. A former prosecutor noted that “it is difficult to get true accountability [in spite of the enactment of legal reform] when we don’t have forensic evidence.”\(^ {216}\) The administrator of a “safe home” for women described a recent case in which an IPV perpetrator was released from custody due to lack of sufficient forensic evidence.\(^ {217}\) The survivor and her mother were referred to the safe home because the perpetrator’s presence in their community made it unsafe for them to stay where they were.\(^ {218}\)

Domestic violence legislation

Intimate partner violence was a policy priority of the Sirleaf administration.\(^ {219}\) In 2009, the government began efforts to enact domestic violence legislation that would enhance protection for survivors.\(^ {220}\) The draft law defined domestic violence broadly and in accord with international law to include physical, sexual, psychological, and economic abuse.\(^ {221}\) It also criminalized spousal rape, addressing a gap in the 2006 Rape Law, under which spousal rape is not addressed.\(^ {222}\) Under the draft domestic violence law, an offense constituted a first-degree misdemeanor or, when the defendant inflicts bodily injury on the survivor, a second-degree felony.\(^ {223}\)

A major obstacle to enactment of the law during the Sirleaf administration was the opposition of legislators who argued that the law contradicted traditional Liberian culture and beliefs.\(^ {224}\) Specifically, the draft law provided that female genital mutilation performed on a person under 18 years
old or on a person over 18 without their consent constituted an act of domestic violence. Legislators, especially from rural districts in which the practice of FGM remains common, opposed the law specifically over this provision. The failure of the legislature to enact the law for the entire tenure of the Sirleaf Administration illustrates how customary beliefs—in this case relating to FGM—can prevent the establishment of formal legal protections for women. In the words of a former Liberian prosecutor, “The men want to remain in control.”

President Sirleaf issued Executive Order No. 92 in January 2018 as way to temporarily get around the inaction of the legislature. The order closely mirrored the draft domestic violence law. However, under Liberian law, executive orders expire after one year. Executive Order No. 92 expired in January 2019, following the end of President Sirleaf’s term in office. Although causality cannot be inferred, the WACPS reported a 32 percent increase in reporting of domestic violence cases in the first half of 2018 (during which Executive Order No. 92 was in place), which government and civil society actors credited to “enhanced awareness and confidence in reporting,” suggesting that the law may have had a positive impact.

In April 2019, President Sirleaf stated that enacting permanent legislation was “unfinished business” that should be undertaken by the new administration of President George Weah, although she believed that having a temporary law in place for one year had a positive “effect.” In June 2019, the Liberian legislature passed a domestic violence law that did not contain a provision on FGM. President Weah signed the law in August 2019. Prior to the law’s passage, some proponents of domestic violence legislation interviewed for this report suggested the enactment of a stand-alone domestic violence law, without a provision on FGM, as a potential solution to the failure to enact the original draft law. Such a law avoided the most controversial provision of the original draft law, garnering more support in the legislature. However, this approach has been strongly criticized by some prominent observers, including Liberia’s vice president, who noted that the law was passed by a “male-dominated Liberian legislature” and “categorically denounce[d]” the decision to drop the provision from the law.

**Conclusion: Uneven progress**

Progress in the fight against gender-based violence and other forms of IPV in Liberia has been uneven. Access to justice for survivors of IPV in Liberia remains low. An overburdened court system, including Criminal Court E, and the absence of forensic evidence impede the successful prosecution of IPV cases. The use of customary dispute-resolution processes that ignore the legal rights of survivors remains widespread. Although a domestic violence law has finally been enacted, this was only possible because it excluded the FGM provision viewed as crucial by many women’s rights advocates. Any strategy to combat IPV in Liberia will have to rely on both formal and informal mechanisms.
customary law. The establishment of sexual-offense courts outside of Montserrado County would enhance access to justice in the formal system. Within the customary system, community paralegal programs and Peace Huts have enhanced access to justice, but informal bodies that do not recognize the legal rights and interests of IPV survivors remain an important dispute-resolution mechanism, especially outside of urban areas.
Implications for Policies and Programs

Law is a potentially powerful tool to address intimate partner violence, but significant gaps in the enactment and implementation of relevant laws exist in many fragile and conflict countries.

Global commitments such as CEDAW and the Sustainable Development Goals are evidence of the international community’s recognition of the importance of ending all forms of violence against women. In April 2019, the UN Security Council unanimously adopted Resolution 2467 to underscore and advance the fight against conflict-related sexual violence.

To fully realize these global commitments, the international community must do more to prevent and respond to intimate partner violence, which is the most common form of violence women experience, even in war. Although emerging evidence, discussed in this report, now links IPV prevalence with fragility and conflict, impunity remains the norm and access to justice is limited for IPV survivors in fragile and conflict settings.

This final section briefly explores implications of this research for the governments of fragile and conflict-affected states, as well as international institutions and donor governments. It ends with recommendations to improve access to justice for survivors of IPV (Table 4).

Implications for governments of fragile and conflict-affected states

IPV is widespread in many fragile and conflict settings, where institutional resources to address it are often limited. In order to meet the obligation of due diligence under international law, governments must take reasonable steps to address and prevent IPV and hold perpetrators accountable.

Engage the customary system

Customary law and traditional norms are an essential piece of the puzzle in fragile and conflict states due to institutional breakdown and lack of trust in the formal justice system. Governments should support educational initiatives and community discussions to transform harmful customary norms. To this end, governments should engage voices of authority, such as religious leaders and village elders, to secure buy-in and input into how to ensure women’s legal rights and well-being are considered in customary processes. Relevant governmental agencies, including ministries of justice and gender, should support legal-empowerment projects, such as community paralegal programs, which aim to bridge the formal and customary systems. Justice ministries should also assist in establishing community dispute mechanisms, such as the
Peace Huts in Liberia, which enable women to mediate disputes. However, serious cases of rape or physical abuse should exclusively be handled by the formal justice system. Legislation should explicitly specify when customary law applies and when formal courts must be used.

**Enact formal legislation**

A critical step for many fragile and conflict states is the enactment of legislation addressing both civil and criminal measures on IPV. Domestic violence laws send a powerful signal about what behavior is unacceptable and can help to transform norms around violence. Legislation should define domestic violence broadly, establish complaint mechanisms, delineate when authorities must investigate and prosecute cases of IPV, allow for protection orders, and provide support services for victims and training for judicial and law enforcement officials.234

“Domestic violence laws send a powerful signal about what behavior is unacceptable and can help to transform norms around violence.”

**Improve implementation**

Implementation is key. Enacting legislation by itself will not improve the situation of IPV survivors. To improve implementation, governments should consider a range of strategies to address the barriers to justice that are specific to fragility and conflict:

- **Establish mechanisms such as specialized courts, mobile courts, and gender-based violence prosecution units and ensure funding and adequate geographic coverage.** These mechanisms can facilitate access to justice by providing a dedicated forum for cases of sexual and gender-based violence, reaching remote or conflict-affected areas, and ensuring cases are overseen, prosecuted, and investigated by judges and lawyers trained in the legal issues specific to these types of cases.

- **Ensure that civil mechanisms, such as protection orders and temporary restraining orders, are available to IPV survivors.** Protection orders and temporary restraining orders, if adequately enforced, can provide expeditious relief and access to protective measures when the formal criminal justice system is inaccessible or disfavored by IPV survivors.

- **Fund and support shelters and one-stop centers.** In fragile and conflict settings, survivors of IPV often lack access to sanctuary from their abusers. Shelters and one-stop centers to provide comprehensive medical, psychological, social, and legal support to survivors can increase their safety and access to justice and should be established in conflict-affected areas and displaced-persons camps.

- **Incorporate services for IPV survivors into programming for conflict-affected populations.** Evidence shows that exposure to
war-related violence can increase individual risk for IPV and that IPV may be more prevalent in districts heavily impacted by conflict. As such, governments should prioritize the establishment of support services for survivors of IPV—including specialized medical and psychological care, as well as outreach aimed at transforming harmful gender norms—in settings where conflict-affected populations are concentrated, such as displaced-persons camps or areas where conflict is particularly widespread.

**Implications for international institutions and governments**

Institutional breakdown and severe budgetary constraints are common to fragile and conflict states. As such, the support of the international community for rule of law and capacity-building projects targeting violence against women and IPV is critical.

First, the international community must do more to acknowledge and address intimate partner violence, in addition to the more traditional forms of conflict-related sexual violence. As the evidence base now shows, conflict-related violence is part of a “continuum of violence” that exists before, during, and after war. To this end, further research is needed to improve understanding of the challenge. Although this report draws on an increasingly robust evidence base, data on the prevalence of IPV in fragile and conflict states is limited. International actors should support efforts to gather data and conduct studies on what works to prevent IPV and increase access to justice for survivors in these settings.

The international community should consider the enactment of an international treaty on violence against women, including provisions specifically addressing intimate partner violence. An international treaty would be a legally binding instrument cementing states’ duties to act to prevent and respond to violence against women, including IPV. Such a treaty would also enumerate states’ obligations and provide a mechanism to monitor and hold them accountable for violations.

A key area where international support can make a difference is in building or providing forensic science capabilities, which are often lacking in fragile and conflict states. Law enforcement agencies can contribute expertise and training, as did forensic experts from Argentina following a 1994 massacre in Haiti. Once capacity is built, international donors should provide sustained financial support to enable continuous operation of forensic science facilities.

International actors should also support the enactment of domestic violence legislation in fragile and conflict states. Such support can include, for example, technical advice on how to draft and implement domestic violence laws. Care should be taken, though, to avoid the perception that
these laws are solely the product of Western or international donors’ influence, which can diminish support for such legislation. To this end, international actors may wish to support domestic civil society groups, which have been instrumental in campaigning for domestic violence laws in some fragile states and are less likely to be perceived as outsiders. Governments should also align their domestic immigration law regimes with their obligations under international human rights and refugee law. The combination of societal violence and IPV propels the migration of women from states in the midst of fragility and conflict such as Honduras. Lack of shelters and the breakdown of social networks in these settings mean that the only sanctuary for many women is in another country. Yet recent attempts in the United States to bar asylum claims by domestic violence survivors would prevent these women from securing safety.239 Such efforts should be halted and reversed.

Finally, international institutions and governments must continue to support fragile and conflict-affected states’ efforts to address IPV well after the formal end of hostilities. Sources interviewed for this report indicated that, in some cases, international assistance diminished when a conflict was no longer perceived as ongoing. However, the impact of conflict on the prevalence of violence against women, including IPV, continues years after fighting between armed groups stops.240 Improving access to justice for IPV survivors requires durable commitments from local, national, and international actors.
### Table 4. Recommendations to Increase Access to Justice for IPV Survivors

<table>
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<tr>
<th><strong>Fragile and Conflict-Affected State Governments</strong></th>
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| **Legislature** | ✦ Enact comprehensive domestic violence legislation addressing both civil and criminal proceedings  
✦ Define domestic violence broadly, including physical, sexual, psychological, and economic violence  
✦ Establish complaint mechanisms and mandate the investigation and prosecution of IPV cases  
✦ Provide for civil protection orders and temporary restraining orders independent of criminal proceedings  
✦ Provide for support services for survivors  
✦ Enact legislation establishing specialized mechanisms, such as sexual and gender-based violence courts  
✦ Enact legislation specifically defining the relationship between customary and national law and mandating that cases involving physical abuse or sexual violence be heard by formal courts |

| **Executive Agencies**<br>(Ministry of Justice, Ministry of Gender) | ✦ Support outreach and educational initiatives, especially in rural and conflict-affected communities, targeting the transformation of harmful gender norms  
✦ Establish or reform customary dispute-resolution forums to include women in leadership roles and enable women to mediate disputes  
✦ Support community paralegal programs and other initiatives to bridge the formal and customary legal systems  
✦ Support and fund shelters and one-stop centers to provide sanctuary and comprehensive services to IPV survivors |

| **Courts** | ✦ Establish specialized and/or mobile courts for sexual and gender-based violence |
### Table 4 Recommendations to Increase Access to Justice for IPV Survivors (continued)

| Police | ◆ Establish specialized investigative units for sexual and gender-based violence  
◆ Train police in best practices for collecting evidence in sexual violence cases and establish mandatory investigative and evidence procedures for IPV cases |
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<td>International Institutions and Governments</td>
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<tr>
<td>UN Security Council</td>
<td>◆ Recognize intimate partner violence as a significant risk in conflict in future resolutions on global peace and security</td>
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| UN Women | ◆ Provide technical support for drafting legislation on domestic violence in fragile and conflict states  
◆ Provide technical support to initiatives that engage customary norms and traditional dispute-resolution forums |
| UN Special Representative on Sexual Violence in Conflict | ◆ Incorporate a focus on intimate partner violence into fact-finding missions and research on specific conflict settings |
| International governments | ◆ Consider the establishment of an international treaty on violence against women, including intimate partner violence  
◆ Enact domestic legislation establishing a comprehensive strategy to fight gender-based violence globally through foreign policy and foreign assistance, such as the proposed International Violence against Women Act in the United States  
◆ Support research and data gathering on IPV in fragile and conflict-affected settings  
◆ Fund and provide technical assistance to legal empowerment initiatives, such as community paralegal programs, in fragile and conflict states  
◆ Fund and provide technical assistance on forensic science for evidence gathering  
◆ Ensure domestic immigration law regimes comply with international human rights and refugee law obligations |
Appendix A. Definitions

**Access to justice:** The ability of people to seek and obtain a remedy through formal or informal institutions of justice and in conformity with human rights standards.

**Customary justice:** Mechanisms for dispute resolution outside of the formal legal system based on customary norms and traditional practices.

**Fragile and conflict-affected states:** Countries with weak institutions, poor governance, and political instability, often associated with continued or recent experience of conflict.

**Gender-based violence:** Violence that is directed against a person because of gender or that affects a particular gender disproportionately. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion, and other deprivations of liberty (CEDAW, General Recommendation No. 19).

**Implementation gap:** The disparity in access to justice and satisfaction of legal needs experienced by women and girls due to incomplete or inadequate enforcement and support for laws on gender-based violence.

**Intimate partner violence:** Violence inflicted by a current or former intimate partner, which can include sexual, physical, psychological, or economic violence. The definition of intimate partner varies and can include formal relationships, such as marriage, as well as informal partnerships, including dating or unmarried sexual relationships.

**Justice gap:** The disparity in access to justice and satisfaction of legal needs experienced by women and girls, especially as measured by the existence of legislation specifically prohibiting intimate partner violence.

**Mobile court:** A temporary court set up in a rural or conflict-affected region to offer access to justice for populations cut off from other forums.

**Protection order:** An injunction issued by a court or other competent body to afford relief to an IPV survivor through measures such as requiring a perpetrator to vacate the home. Protection orders are issued under the civil, as opposed to criminal, law system.
Specialized court: A court established to hear cases involving specific offenses related to gender-based violence and domestic violence.

Violence against women: “Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” (Declaration on the Elimination of Violence against Women, 1993).


This report primarily focuses on states included on the World Bank annual harmonized list of fragile situations (in 2019, this list contains 36 states). However, on occasion it references states not included on the World Bank list, such as Pakistan, that possess some of the characteristics of conflict-affected states. The World Bank list and definitions are available here: www.worldbank.org/en/topic/fragilityconflictviolence/brief/harmonized-list-of-fragile-situations.

Our estimates are based on IPV rates in UN Women’s Global Database on Violence against Women, the most comprehensive source on global IPV data currently available.


According to the UN Global Database on Violence against Women, the proportion of ever-partnered women aged 15 to 49 years experiencing intimate partner physical and/or sexual violence in the 12 months preceding the survey in these countries was: Timor-Leste (58.8), Afghanistan (46.1), the Solomon Islands (41.8), the Democratic Republic of the Congo (36.8), Kiribati (36.1), and Liberia (35).


Prominent human rights lawyers have noted a “normative gap” between the standard set in instruments such as CEDAW and states’ actual willingness to be legally bound. This has led to a call for a new international treaty on violence against women to address the gaps and establish a workable system of monitoring and compliance. See Rashida Manjoo, “Normative Developments on Violence against Women in the United Nations System,” in The Legal Protection of Women from Violence: Normative Gaps in International Law, eds. Jackie Jones and Rashida Manjoo (New York: Routledge, 2018), 97.

UN General Assembly, Convention on the Elimination of All Forms of Violence against Women, UNTS 1249, no. 20378, December 18, 1979, Article 2.


Ibid.
31 Inter-American Commission on Human Rights, Report no. 54/01, Case 12.051, Maria da Penha Maia Fernandes, Brazil, 2001, para. 56.
34 World Health Organization, Global and Regional Estimates, 6.
35 Ibid.
36 Ibid.
37 UN Secretary-General, “In-Depth Study on All Forms of Violence against Women,” A/61/122/Add.1, July 6, 2006, 36; See also the Declaration on the Elimination of Violence against Women.
39 The Uppsala Conflict Data Program (UCDP) defines battle-deaths as deaths caused by the warring parties that can be directly related to combat over the contested incompatibility. This includes fighting on the battlefield, guerilla activities, and bombardment. The UCDP data counts both military and civilian deaths. See “Battle-related deaths,” Uppsala Conflict Data Program, accessed March 15, 2019, www.pcr.uu.se/research/ucdp/definitions/#Battle-related_deaths.
40 Estimates for number of women experiencing IPV is based on the IPV prevalence rate provided in the UN Women Global Database on Violence against Women. This rate is based on national demographic surveys that asked women whether they had experienced physical or sexual IPV within the 12 months preceding the survey. The surveys included only women ages 15 to 49. This 12-month IPV rate was then multiplied by the female population of that country ages 15 to 49 in the same year or the closest year for which data is available from the United Nations Development Programme. The resulting estimates thus provide an approximation of the number of women in this age group who experienced IPV in a given year.
41 Uppsala Conflict Data Program, “Battle Deaths” data; UN Women Global Database on Violence against Women.
42 Ibid.
Uppsala Conflict Data Program, “Battle Deaths” data; UN Women Global Database on Violence against Women.

Ibid.


Kelly et al., “From the Battlefield,” 1.


Italo A. Gutierrez and Jose V. Gallegos, “The Effect of Civil Conflict on Domestic Violence: The Case of Peru” (working paper WR-1168, Rand Corporation, 2016).


Mary Ellsberg and Manuel Contreras, No Safe Place: A Lifetime of Violence for Conflict-Affected Women and Girls in South Sudan (Pretoria, South Africa: What Works to Prevent Violence, 2017), 64.


Heise, What Works, xii-xiv.

The UN Secretary-General's 2018 report on women, peace, and security noted a "significant relationship between political violence and intimate partner violence in the aftermath of conflict." In the 2011 World Development Report, the World Bank described "higher incidence of domestic violence" as among the gender-disaggregated impacts of violent conflict.

De Silva de Alwis and Klugman, "Freedom from Violence," 5.


For example, de Silva de Alwis and Klugman show that a “second generation of lawmaking” in many Asian countries has been more “nuanced” and “comprehensive” in defining intimate partner violence. See de Silva de Alwis and Klugman, “Freedom from Violence,” 36.


Heise, What Works, 71.


World Health Organization, Preventing Intimate Partner and Sexual Violence.

Jeni Klugman and Li Li, “Combatting Intimate Partner Violence: Do Laws Have a Role?” (unpublished manuscript, 2019).

Ibid.
For example, former vice president Joe Biden, who authored the 1994 law, has cited the 63 percent decline in domestic violence as evidence of the law's impact. See https://twitter.com/JoeBiden/status/1096434419378933760.


Heise, What Works, 44.


See Maxwell, Garner, and Fagan, “Effects of Arrest, 9, for evidence of a “consistent” though “modest” deterrent effect.


Rehn and Sirleaf, Women, War and Peace, 15.


It is important to note that some countries, including Afghanistan, have enacted broad laws on violence against women that do not specifically mention or address domestic violence, although they criminalize acts, such as sexual violence, which can constitute IPV and have been used in some cases to prosecute domestic abusers. This report follows the approach of the World Bank's Women, Business and the Law report, which assesses whether countries have laws "specifically addressing" and/or providing aggravated penalties for domestic violence. See World Bank, Women, Business and the Law, 56.


94 High-Level Group on Justice for Women, Justice for Women, 55.

95 Ellsberg and Contreras, No Safe Place, 13.


102 Ibid.


Seelinger and Freccero, The Long Road, 43.


In the United States, studies have found that survivors report that police bias and inaction discourages them in many cases from reporting acts of IPV. See Julie Goldscheid et al., Responses from the Field: Sexual Assault, Domestic Violence, and Policing (New York: American Civil Liberties Union, 2015).


Doyle and McWilliams, Intimate Partner Violence.


Klugman et al., Voice and Agency, 71-73.

Ibid.

Ibid.

Klugman and Li, “Combatting Intimate Partner Violence,” 60.

Ibid.
127 UN Women, Preventing Conflict, 204.
129 Heise, What Works, 80.
130 Turquet, Progress of the World’s Women, 74.
131 Klugman and Li, “Combatting Intimate Partner Violence,” 58-60.
132 Ibid.
133 Ibid.
134 Klugman and Li, “Combatting Intimate Partner Violence,” 58-60.
135 Ibid.
136 Turquet, Progress of the World’s Women, 59.
144 Turquet, Progress of the World’s Women, 59.
145 Maya, “Mobile Courts.”
146 Heise, What Works, 74.
147 Ibid.
149 Ibid.
151 Seelinger and Freccero, The Long Road, 36.
152 Seelinger and Freccero, The Long Road, 29.
154 Seelinger and Freccero, The Long Road, 22.


National Transitional Legislative Assembly of Liberia, “An Act to Amend the New Penal Code Chapter 14 Sections 14.70 and 14.71 and to Provide for Gang Rape” (Monrovia, Liberia 2006). The 2006 law, for example, broadens the definition of rape to include nonconsensual penetration with a foreign object.


Kelly et al., “From the Battlefield,” 1.


Vinck and Pham, “Associations of Exposure,” 46.

Author interview with Pela Boker-Wilson, former prosecutor.


Ibid.


Author interview with Pela Boker-Wilson, former prosecutor.

Author interview with international organization official.


Author interview with international organization official.

International Crisis Group, Liberia, 8.

International Crisis Group, Liberia, 8.
Author interview with Deweh Gray, former vice chairperson of the Law Reform Commission.

Author interview with Pela Boker-Wilson, former prosecutor.

Ibid.

Author interview with international organization official; Author interview with Pela Boker-Wilson, former prosecutor.

UN Mission in Liberia, Addressing Impunity, 13.

Ibid.

Author interview with Pela Boker-Wilson, former prosecutor.

Author interview with Princess Taire, official at NGO in Liberia serving victims of violence against women.

Author interview with Pela Boker-Wilson, former prosecutor.

Author interview with international organization official.


Ibid.

Ibid.


Ibid.


Ibid.


Author interview with Julia Duncan-Cassell, former minister of gender of Liberia.


Author interview with Deweh Gray, former vice chairperson of the Law Reform Commission.

Author interview with Julia Duncan-Cassell, former minister of gender of Liberia.


UN Women, Preventing Conflict, 204.

Author interview with Deweh Gray, former vice chairperson of the Law Reform Commission.

Author interview with Pela Boker-Wilson, former prosecutor.

UN Mission in Liberia, Addressing Impunity, 18.
Author interview with Deweh Gray, former vice chairperson of the Law Reform Commission.

Author interview with international organization official.


Author interview with Deweh Gray, former vice chairperson of the Law Reform Commission.

UN Mission in Liberia, Addressing Impunity, 18.

UN Mission in Liberia, Addressing Impunity, 18.

UN Mission in Liberia, Addressing Impunity, 16.


UN Mission in Liberia, Addressing Impunity, 16.

Ibid.

Author interview with Pela Boker-Wilson, former prosecutor.

Ibid.

Author interview with “safe home” official.

Ibid.

President Ellen Johnson-Sirleaf in conversation at Georgetown University, April 12, 2019.

Author interview with Deweh Gray, former vice chairperson of the Law Reform Commission.

“An Act to Amend Title 26, Chapter 16 of the Penal Law. LCLR Offenses against the Family to Add Subchapter A. Domestic Violence” Legislation of Liberia.

Ibid.

An Act to Amend Title 26, Chapter 16 of the Penal Law. LCLR Offenses against the Family to Add Subchapter A. Domestic Violence” Legislation of Liberia.

President Ellen Johnson-Sirleaf in conversation at Georgetown University, April 12, 2019.

“An Act to Amend Title 26.”

President Ellen Johnson-Sirleaf, Executive Order No. 92 on Domestic Violence.


President Ellen Johnson-Sirleaf in conversation at Georgetown University, April 12, 2019.


Author interview with Deweh Gray, former vice chairperson of the Law Reform Commission.


The UN’s guidelines on drafting legislation on violence against women suggest an approach that would mandate authorities to investigate and, where warranted, prosecute all cases of IPV. However, critics of an exclusively criminal justice approach, especially in countries such as the United States, note that mandatory prosecution policies may conflict with the needs and desires of IPV survivors. The evidence contained in this report shows that, in fragile and conflict states, the legal authorities often fail to prosecute acts of IPV. The report proposes that, at a minimum, domestic legislation should be enacted addressing both civil and criminal processes, as well as when investigation and prosecution is required.

These recommendations broadly follow the UN’s guidelines on drafting legislation on violence against women. See UN Women, Handbook for Legislation on Violence against Women, 10.

See Østby et al., “Legacy of Wartime Violence”; Gutierrez and Gallegos, “Effect of Civil Conflict.”

See Swaine et al., Intersections of Violence, 784.


See Kelly et al., “From the Battlefield,” showing that Liberian women in conflict-affected districts had greater risk for IPV five years into the post-conflict period.