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ADDRESSING GENDER-BASED VIOLENCE
PROSECUTION AND CASES BEFORE INTERNATIONAL TRIBUNALS
REGARDING THE MEMBER-STATES OF THE COUNCIL OF EUROPE



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Cover picture: Death, Beauty, and Justice V, Artist: Raqib Shaw, 2008

Abstract

The present study is an effort to examine the progress of engendering international legal mechanisms and securing justice for crimes. This without the obsolete notion that gender-based violence is not directly affiliated with the structural pathologies of the societies. There is a presentation of the causes, the effects and the approaches in the eradication of the phenomenon. At the last part, there is an outline of some selected jurisprudence before international tribunals.

Keywords: Gender-based violence, Legislation, Prosecution, The Council of Europe, International tribunals

Acronyms

CEDAW	Convention on the Elimination of All Forms of Violence against Women
CoE	Council of Europe
DV	Dating violence
ECJ	European Court of Justice
ER	Emergency room
EU	European Union
FGM	Female genital mutilation
GBV	Gender-based violence
ICC	International Criminal Court
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IPV	Intimate partner violence
LGBTQI+	Lesbian, Gay, Bisexual, Trans, Queer, Intersex

NGO(s)	Non-governmental organisation(s)
PTSD	Post-traumatic stress disorder
TRNC	Turkish Republic of Northern Cyprus
VAW	Violence against women
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
US (A)	United States (of America)

Objectives

The objectives of the present study are to firstly present some of the alleged predictors of violent behaviour in order to be incorporated into the different societal structures and create more efficient planning when addressing the issue. Then there is a legal approach, presenting the different conventional obligations of the States under study. At the final part, there is a selection of case law in order to emphasize the evolution of international responses to gender-based violence.

The objectives are in accordance with the ecological model of analysis, thus looking at the individual – educational level, previous experience of abuse, alcohol and substance abuse, employment status, community – religion, attitudes towards violence, prevalence of gender stereotypes, institutional support; societal – unfavourable structures and legislation, norms regarding masculinity and femininity; and global level.

Methodology

The methodology used is firstly developing the research questions and finding the literature that can be included in the study. From the found literature, there was a need for a selection of the information extracted and categorized into different sections accordingly. After assessing the different data, each section draws conclusions, interprets the results and moves on to the next section. At the end, there is a review and summary of the results.

Preface

When considering the longstanding affiliation of the feminine with disorder, the merging of women with monsters should not be of surprise. Female body – in contrast with the allegedly restrained; self-contained; and controllable, thus male – is uncontained, leaky as evidenced by common occurrences like menstruation, pregnancy and lactation, and by other forms of disorders like hysteria, bulimia and anorexia. Western countries have not managed to abolish the burden of the association of women with danger, especially in the spheres of sexuality and maternity. Mothers are simultaneously the agents of the best hopes and the worst fears entrenched in the society, and this disparity is not limited to this specific period of a woman's life.¹

The fact that gender expressions vary vastly between times and cultures suggests that they cannot simplistically be attributed to biology, but are instead a human creation, and thus reversible, a thought raised by researchers in the 1970s and 1980s. But, what is a common element is the ever existed patriarchy in a variation of densities, which is still evident nowadays.² The transition from women's to gender's studies had been spread across the social sciences, and queer theory has gone a step beyond that, arguing that bodies are both the *locus* of performance and performativity of gender and sexuality.³

¹ Ruth, H., Hassard, J., "Contested Bodies: An Introduction", In Holliday, R., Hassard, J., (Eds.), "Contested Bodies", Routledge, London, New York, 2001, pp. 1-18, pp. 5-6; Sildrick, M., "Embodying the Monster: Encounters with the Vulnerable Self", Sage Publications, 2002, pp. 30-31; Shilling, C., "The Body and Social Theory", Sage Publications, 1993, p. 55

² Cockburn, C., "The Continuum of Violence: A Gender Perspective on War and Peace", In Giles, W., Hyndman, J., (Eds.), "Sites of Violence: Gender and Conflict Zones", University of California Press, Berkeley, Los Angeles, London, 2004, pp. 24-45, p. 28; Eriksen, T. H., "Μικροί Τόποι, Μεγάλα Ζητήματα. Μια Εισαγωγή στην Κοινωνική και Πολιτισμική Ανθρωπολογία", Εκδόσεις Κριτική, Αθήνα, 2007, pp. 114, 208-209, 212-213, 218-219, 221; Hooper, C., "Manly States: Masculinities, International Relations, and Gender Politics", Columbia University Press, New York, 2003, p. 21; Macionis, J. J., "Sociology", Tenth Edition, Pearson Education, New Jersey, 2005, pp. 327-328; Nagel, J., "Race, Ethnicity, and Sexuality: Intimate Intersections, Forbidden Frontiers", Oxford University Press, New York, Oxford, 2003, pp. 7, 51; Μπακαλάκη, Α., "Από την Ανθρωπολογία των Γυναικών στην Ανθρωπολογία των Φύλων", In Μπακαλάκη, Α., (Επ.), "Ανθρωπολογία, Γυναίκες και Φύλο", Εκδόσεις Αλεξάνδρεια, Αθήνα, 1994, pp. 13-74, pp. 33, 36; Ortner, S., "Είναι το Θηλυκό για το Αρσενικό Ότι η Φύση για τον Πολιτισμό;", In Μπακαλάκη, Α., (Επ.), *ibid.*, pp. 75-108, pp. 75-76; Παπαταξιάρχης, Ε., "Εισαγωγή", In Παπαταξιάρχης, Ε., Παραδέλλης, Θ., "Ταυτότητες και Φύλο στη Σύγχρονη Ελλάδα: Ανθρωπολογικές Προσεγγίσεις", Εκδόσεις Καστανιώτη, Αθήνα, 1992, pp. 11-98, p. 12

³ Nagel, J., *op. cit.* no. 2, p. 51; Oakley, A., "Sex, Gender and Society", Gower Publishing [Maurice Temple Smith], England, 1985 [1972], pp. 158-159; Τάζογλου, Ε., "Ανεργία και Έμφυλες Διαπραγματεύσεις: Μια Κριτική Κοινωνικο-Ψυχολογική Προσέγγιση σε Άνεργους/ες Έγγαμους/ες Άνδρες και Γυναίκες", Διδακτορική Διατριβή, Αριστοτέλειο Πανεπιστήμιο Θεσσαλονίκης, Θεσσαλονίκη, 2007, pp. 24, 192-193

The perseverance of the Manichaeic exaggerating distinction between men and women; nature and civilisation; public and private have all exacerbated the antithetical view of males and females. If something is perceived as male cannot simultaneously be female, which does not reflect the reality.⁴

Due to the technological advances of the modern era it can be argued that the binding dichotomy of the binary of genders has been overcome, as a cultural and physical dimorphism, and redefinition of the body and self is a reality.⁵

Whatever the reforms and attempts to address gender inequalities, as long as the underlying causes are not dismantled, the effects will only be temporary. The same applies if efforts are only focused on changing the norms. Everyone should be engaged in the processes of transformativity.⁶

⁴ Hooper, C., *op. cit.* no. 2, pp. 19, 43; Παπαταξιάρχης, Ε., *op. cit.* no. 2, pp. 13-14; Charlesworth, H., Chinkin, C., Wright, S., "Feminist Approaches to International Law", *The American Journal of International Law*, Vol. 85, No. 4, 1991, pp. 613-645, pp. 625-627; Freud, S., "The Social Construction of Gender", *Journal of Adult Development*, Vol. 1, No. 1, 1994, pp. 37-45, p.41; Rosaldo, M., "Χρήση και Κατάχρηση της Ανθρωπολογίας: Σκέψεις για το Φεμινισμό και τη Διαπολιτισμική Κατανόηση", In Μπακαλάκη, Α., (Επ.), *op. cit.* no. 2, pp. 185-234, pp. 211, 216, 219; Strathern, M., "Ούτε Φύση Ούτε Πολιτισμός: Η Περίπτωση Hagen", In Μπακαλάκη, Α., (Επ.), *op. cit.* no. 2, pp. 109-184, pp. 123, 137; Turner, P. J., "Βιολογικό Φύλο, Κοινωνικό Φύλο και Ταυτότητα του Φύλου", *Ελληνικά Γράμματα*, Αθήνα, 1998, p. 23; Κραβαρίτου, Γ., "Φύλο και Δίκαιο: Η Προβληματική της Βαρύτητας των Νομικών Ρυθμίσεων στις Έμφυλες Κοινωνικές Σχέσεις", Εκδόσεις Παπαζήση, Αθήνα, 1996, p. 98

⁵ Eriksen, T. H., *op. cit.* no. 2, pp. 221-222; Carver, T., "Trans' Trouble. Trans-Sexuality and the End of Gender", In Browne, J., (Ed.), "The Future of Gender", Cambridge University Press, Cambridge, 2007, pp. 116-136, pp. 118, 131-132; Sigusch, V., "On Cultural Transformations of Sexuality and Gender in Recent Decades", *German Medical Science*, Vol. 2, 2004

⁶ Ortner, S., *op. cit.* no. 2, p. 107

Introduction

GBV is a form of interpersonal violence that aims to control, intimidate, terrorize, and has served to keep a major part of the population in a non-ending state of fear. GBV crosses all racial, ethnic, socioeconomic boundaries. While anyone can experience violence, this specific form has a disparate impact on women and girls. Unequal power relationships and disempowerment of women that are entrenched into the structural components of the societal organization affect and perpetuate violence. Ultimately, GBV is a pervasive human rights violation.

Almost two centuries ago, men asserted their right to control their households, sometimes through the use of force. Today, gender violence is in campuses, the work place, and everywhere there is interaction between individuals, and domestic violence is not a private matter anymore,⁷ although in international public law the distinction between private matters and public life is still present.⁸

Persons that do not comply with the assertions about the appropriate traits and behaviour that align with their sex are in increased risk of violence and life-long victimization. Those can include LGBTQI+ persons, whose gender identity/expression is not in compliance with the socially accepted gender norms.⁹ Other factors of 'otherness' – being an immigrant, member of a minority, a sex worker – can work accumulatively, filling lives with constant degradation, fear, discrimination. Consequently, for some the burden can be unbearable.¹⁰

⁷ Macionis, J. J., *op. cit.* no. 2, pp. 337, 339-341; Κραβαρίτου, Γ., *op. cit.* no. 4, p. 90; Koodoruth, I., "Addressing the Issue of Domestic Violence at the Workplace: A Review of the Implementation of the Victim Empowerment and Abuser Rehabilitation Policy in Mauritius", *Journal of Arts and Humanities (JAH)*, Vol. 2, No. 11, 2013, pp. 98-105, p. 98; Παπαρρήγα-Κωσταβάρα, Κ., "Διεθνείς και Ευρωπαϊκές Πολιτικές για την Καταπολέμηση της Βίας κατά των Γυναικών: Ενδοοικογενειακή Βία και Διεθνική Σωματεμπορία", In Στρατηγάκη, Μ., (Επ.), "Πολιτικές Ισοότητες των Φύλων: Ευρωπαϊκές Κατευθύνσεις και Εθνικές Πρακτικές", Εκδόσεις Gutenberg, Αθήνα, 2008, pp. 125-158, p. 126

⁸ Etienne, M., "Addressing Gender-Based Violence in an International Context", Research Paper No. 05-03, Illinois Public Law and Legal Theory Research Papers Series, 2005, pp. 158, 159; Giles, W., Hyndman, J., "Gender and Conflict in a Global Context", In Giles, W., *op. cit.* no. 2, pp. 3-24, pp. 3-4

⁹ Eriksen, T. H., *op. cit.* no. 2, p. 115; Rodley, N., *Report of the Special Rapporteur on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, United Nations General Assembly, A/56/156, 2001; Hemsing, N., Greaves, L., Poole, N., Schmidt, R., "Misuse of Prescription Opioid Medication among Women: A Scoping Review", *Pain Research and Management*, Vol. 2016, 2016; Kelly, L., Radford, J., "Nothing Really Happened': The Invalidation of Women's Experiences of Sexual Violence", *Critical Social Policy*, Vol. 10, Iss. 30, 1990, pp. 39-53, p. 4; Mason, G., "The Spectacle of Violence: Homophobia, Gender and Knowledge", Routledge, London, New York, 2002, p. 71; Nussbaum, M. C., "Φύλο και Κοινωνική Δικαιοσύνη", Εκδόσεις Scripta, Αθήνα, 2005, p. 23; Dunham, G., "The Forgotten Ones: Queer and Trans Lives in the Prison System", *The New Yorker*, 08.02.2016, Available at: <https://www.newyorker.com/books/page-turner/the-forgotten-ones-queer-and-trans-lives-in-the-prison-system>

¹⁰ Hooper, C., *op. cit.* no. 2, pp. 35-36; Mason, G., *ibid.*, pp. 46-50; Nussbaum, M. C., *ibid.*, p. 679; Κραβαρίτου, Γ., *op. cit.* no. 4, pp. 34-35; Gallego, M., Gualda, E., Rebollo, C., "Women and Refugees in Twitter: Rhetorics of Abuse, Vulnerability and Violence from a Gender Perspective", *Journal of Mediterranean Knowledge-JMK*, Vol. 2, No. 1,

2017, pp. 37-58, pp. 42-47; Marques Andrade, C. J., Godoy Serpa da Fonseca, R. M., "Considerations on Domestic Violence, Gender and the Activities of Family Health Teams", *Revista da Escola de Enfermagem USP*, Vol. 42, No. 3, 2008, pp. 580-584, p. 581; Peroni, C., "Gender Violence and Sexism in Italy. Norms, Control, and Sexuality", *The Topic*, Revision of Article In Simone, A., "Sessismo Democratico. L' Uso Strumentale delle Donne nel Neoliberalismo", Mimesis, Milano, 2012; Αμπατζή, Κ. Μ., "“Ποτό για Παρέα”: Έμφυλες Σχέσεις, Σώμα και Συναίσθημα στη Σεξουαλική Εργασία", Διδακτορική Διατριβή, Πανεπιστήμιο Αιγαίου, Μυτιλήνη, 2004, p. 40

Part I: Overview violence

Chapter I: Basic facts

From the United Nations Declaration on the Elimination of Violence against Women derives the official definition, as:

“Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or in private life.”¹¹

GBV disproportionately affects women and girls, and happens mostly pursuant to adolescence. Nevertheless, more recent data suggest that young boys are also victimized, as well as men, as the power dynamics are shifting and more people are willing to admit their victimization, although the frequency and severity of incidents is to a lesser extent. The emphasis needs to be on the power negotiations between the individuals, which henceforth are not limited to male-female and restricted in the domestic domain. The scope of GBV is to (re)establish a relationship of dominance and control, and disproves the notion that is related to sexual impulses.¹²

¹¹ United Nations, *Declaration on the Elimination of Violence against Women*, General Assembly, A/RES/48/104, 1993, Article 1

¹² Sigusch, V., *op. cit.* no. 5; World Health Organization, *London School of Hygiene and Tropical Medicine, Preventing Intimate Partner and Sexual Violence against Women: Taking Action and Generating Evidence*, World Health Organization, Geneva, 2010, p. 11; Glaser, D., “Child Maltreatment”, In Skuse, D., Bruce, H., Dowdney, L., Mrazek, D., (Eds.), “Child Psychology and Psychiatry: Frameworks for Practice”, Wiley-Blackwell Publishing [John Wiley & Sons], Oxford, 2012 [2011], pp. 114-120, p. 116; Fulu, E., Miedema, S., Roselli, T., McCook, S., Chan, K. L., Haardörfer, R., Jewkes, R., (UN Multi-Country Study on Men and Violence Study Team), “Pathways between Childhood Trauma, Intimate Partner Violence, and Harsh Parenting: Findings from the UN Multi-Country Study on Men and Violence in Asia and the Pacific”, *Lancet Global Health*, Vol. 5, 2017, e512–e522, e516–e517; Dougherty, D. S., “Gendered Constructions of Power during Discourse about Sexual Harassment: Negotiating Competing Meanings”, *Sex Roles*, Vol. 54, 2006, pp. 495-507, pp. 495, 498-500, 505; Archer, J., “Sex Differences in Physically Aggressive Acts between Heterosexual Partners. A Meta-Analytic Review”, *Aggression and Violent Behavior*, Vol. 7, 2002, pp. 313-351, pp. 339-340; Struckman-Johnson, C. “Forced Sex on Dates: It happens to Men, Too”, *The Journal of Sex Research*, Vol. 24, No. 1, 1988, pp. 234-241, pp. 237-239; Hellemans, S., Buysse, A., De Smet, O., Wietzker, A., “Intimate Partner Violence in Belgium: Prevalence, Individual Health Outcomes, and Relational Correlates”, *Psychologica Belgica*, Vol. 54, No. 1, 2014, pp. 79-96, pp. 85-87; Panuzio, J., DiLillo, D., “Physical, Psychological, and Sexual Intimate Partner Aggression among Newlywed Couples: Longitudinal Prediction of Marital Satisfaction”, *Journal of Family Violence*, Vol. 25, 2010, pp. 689-699, pp. 692-693; Hester, M., “Who Does What to Whom? Gender and Domestic Violence Perpetrators”, University of Bristol in association with the Northern Rock Foundation, Bristol, 2009, pp. 8, 12-13; Naidu, E., Mkhize, N., “Gender-Based Violence: The Lesbian and Gay Experience”, *Agenda: Empowering Women for Gender Equity*, No. 66, Gender-Based Violence Trilogy, Volume 1,1: Domestic Violence, 2005, pp. 34-38; Rhodes, K. V., Lauderdale, D. S., He, T., Howes, D. S., Levinson,

The most common misconception is that assaults occur between strangers. However, most of them are between individuals that are known and trust is a component of the relationship. These can include family, fellow students, current or previous intimate partners, friends or acquaintances.¹³ Regarding the timely extent, it can be a one-time incident or can stretch to a period of decades.¹⁴

The vulnerability of women exacerbates in situations of turmoil – a purely manly domain – due to their gender, engendered bodies and because as a technique – quite effective indeed – it tears apart the social cohesion of the defeated party, as well as creates unity between armed groups. Men are also victimized during periods of turbulence due to their gender. But types of violence are gender selective. Enlisting, killing, sex-selective massacre, torture, mutilation are among the forms targeting males.¹⁵

Although the research on the phenomenon has been a long process, no definite responses are proposed.¹⁶ Consequently, this paper suggests that a multifaceted issue calls for a multidimensional, multisectoral, interdisciplinary approach. From the individual level to that of interpersonal relationships, communal and societal normative expectations and as last thread, the global addressing of large-scale violations of non-derogable obligations to respect human rights.

W., “‘Between Me and the Computer’: Increased Detection of Intimate Partner Violence Using a Computer Questionnaire”, *Annals of Emergency Medicine*, Vol. 40, Iss. 5, 2002, pp. 476-484, p. 479

¹³ Macionis, J. J., *op. cit.* no. 2, p. 341; Basile, K. C., Smith, S. G., Walters, M. L., Fowler, D. N., Hawk, K., Hamburger, M. E., “Sexual Violence Victimization and Associations with Health in a Community Sample of Hispanic Women”, *Journal of Ethnic and Cultural Diversity in Social Work*, Vol. 24, No. 1, 2015, pp. 1-27, p. 9; Stenning, P., Mitra-Kahn, T., Gunby, C., “Sexual Violence against Female University Students in the U.K.: A Case Study”, *Rivista di Criminologia, Vittimologia e Sicurezza*, Vol. VII, No. 2, 2013, pp. 100-119, pp. 106-107

¹⁴ Leitão, M. C., “Women Survivors of Intimate Partner Violence: The Difficult Transition to Independence”, *Revista da Escola de Enfermagem da USP*, Vol. 48, 2014, pp. 7-15, p. 11

¹⁵ Cockburn, C., *op. cit.* no. 2, pp. 35-36; Gallego, M., *op. cit.* no. 10, pp. 38-40; Giles, W., *op. cit.* no. 8, p. 13; Hooper, C., *op. cit.* no. 2, p. 19; Nagel, J., *op. cit.* no. 2, pp. 181-184, 186; Brownmiller, S., “Against Our Will: Men, Women and Rape”, Secker and Warburg, London, 1975, pp. 31-32, 35, 38; Cahn, N., “Beyond Retribution and Impunity: Responding to War Crimes of Sexual Violence”, The George Washington University Law School, Public Law and Legal Theory Working Paper No. 104, 2004, pp. 5, 11; Cohen, D. K., “Explaining Rape during Civil War: Cross-National Evidence (1980-2009)”, *American Political Science Review*, Vol. 107, No. 3, 2013, pp. 461-477, pp. 463-465; Diken, B., Laustsen, C. V., “Becoming Abject: Rape as a Weapon of War”, *Body and Society*, Vol. 11, Iss. 1, 2005, pp. 111-128, pp. 111-112, 117, 122, 124; Giles, W., Hyndman, J., “New Directions for Feminist Research and Politics”, In Giles, W., *op. cit.* no. 2, pp. 301-315, p. 309; Iveković, R., “Women, Nationalism and War: ‘Make Love, Not War’”, *Hypatia*, Vol. 8, No. 4, 1993, pp. 113-126, pp. 115-116, 118; Jones, A., “Gender and Ethnic Conflict in Ex-Yugoslavia”, *Ethnic and Racial Studies*, Vol. 17, No. 1, 1994, pp. 115-134, pp. 119-125; Sideris, T., “Rape in War and Peace: Some Thoughts on Social Context and Gender Roles”, *Agenda: Empowering Women for Gender Equity*, No. 43, 2000, pp. 41-45, p. 42; Korac, M., “War, Flight, and Exile: Gendered Violence among Refugee Women from Post-Yugoslav States”, In Giles, W., *ibid.*, pp. 249-273, pp. 269-270; Linos, N., “Rethinking Gender-Based Violence During War: Is Violence against Civilian Men a Problem Worth Addressing?”, *Social Science and Medicine*, Vol. 68, Iss. 8, 2009, pp. 1548-1551; Morokvasic-Muller, M., “From Pillars of Yugoslavism to Targets of Violence: Interethnic Marriages in the Former Yugoslavia and Thereafter”, In Giles, W., *op. cit.* no. 2, pp. 134-151, pp. 143-144

¹⁶ Girard, R., “Violence and the Sacred”, The John Hopkins University Press [Editions Bernard Grasset], Baltimore, London, 1989 [1989], p. 33

Chapter II: Violence in a structural and cultural context

The term structural violence was defined by Johan Galtung in 1969. He argued that structural violence is an:

*“avoidable impairment of fundamental human needs”.*¹⁷

The forms of structural violence would include racism, sexism, heterosexism, ageism, and other forms of bias. The root causes are perceived as structural because they are embedded in the political and economic organization and because their outcome is causing an impairment of fulfilling the maximum potential in life. Thus, thinking about the conditions that prevent people of some form/s of freedom is what constitutes structural violence. This is a tool when examining the likelihoods of someone being a perpetrator or a victim and in effect designing policies to tackle this pathogenesis.¹⁸

Another way of thinking about violence is from a cultural perspective. Some widespread practices in a part of the world are unthinkable in others. This is also the case regarding interpersonal relationships and healthy expressions of love and intimacy. For example, in settings where jealousy and possession, and even aggressive persuasion are indicative of affection, these behaviours are not perceived as unhealthy. These issues are delicate, since they are interconnected with notions about consent, ownership, gender attitudes and roles, as well as religious beliefs.¹⁹ Widespread and large-scale

¹⁷ My emphasis

Galtung, J., “Violence, Peace, and Peace Research”, *Journal of Peace Research*, Vol. 6, No. 3, 1969, pp. 167-191, pp. 168-170

¹⁸ Macionis, J. J., *op. cit.* no. 2, p. 328; Barboza, G. E., Dominguez, S., Chance, E., “Physical Victimization, Gender Identity and Suicide Risk among Transgender Men and Women”, *Preventive Medicine Reports*, Vol. 4, 2016, pp. 385–390, pp. 386-387; Costantino, R., Rotabi, K. S., Rodman, D. H., “Violence against Women and Asylum Seeking: Global Problems and Local Practices Applied to Guatemalan Women Immigrating for Safety”, *Advances in Social Work*, Vol. 13, No. 2, 2012, pp. 431-450, p. 440; Heise, L. L., Kotsadam, A., “Cross-National and Multilevel Correlates of Partner Violence: An Analysis of Data from Population-Based Surveys”, *Lancet Global Health*, Vol. 3, 2015, e332–e340, e338; Laisser, R. M., Nyström, L., Lugina, H. I., Emmelin, M., “Community Perceptions of Intimate Partner Violence: A Qualitative Study from Urban Tanzania”, *BMC Women’s Health*, Vol. 11, 2011; Levitt, H. M., Swanger, R. T., Butler, J. B., “Male Perpetrators’ Perspectives on Intimate Partner Violence, Religion, and Masculinity”, *Sex Roles*, Vol. 58, 2008, pp. 435-448, p. 439; Wulandari, C., Wijayanto, I., “Gender-Based Restorative Justice for Victims of Violence against Women”, *Jurnal Dinamika Hukum*, Vol. 15, No. 1, 2015, pp. 82-88, p. 84

¹⁹ Heise, L. L., *ibid.*; Brownmiller, S., *op. cit.* no. 15, pp. 29, 380; Kelly, L., *op. cit.* no. 9, p. 47; Laisser, R. M., *op. cit.* no. 18; Macionis, J. J., *op. cit.* no. 2, p. 341; Nussbaum, M. C., *op. cit.* no. 9, pp. 218-219, 340; Παπαρρήγα-Κωσταβάρα, Κ., *op. cit.* no. 7, p. 157; Erturk, Y., *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences*, Human Rights Council, A/HRC/4/34, 2007, pp. 16-19; Dingwall, G., “Alcohol and Violence in Evolutionary Perspective”, In McMurrin, M., (Ed.), “Alcohol Related Violence: Prevention and Treatment”, Wiley-Blackwell, United Kingdom, 2013, pp. 61-80, pp. 64-67; Kalaca, S., Dundar, P., “Violence against Women: The Perspective of Academic Women”, *BMC Public Health*, Vol. 10, 2010; Knickmeyer, N., Levitt, H., Horne, S. G., “Putting on Sunday Best: The Silencing of Battered Women within Christian Faith Communities”,

crimes can also be symptomatic of these rooted beliefs and the concepts of honour, shame, and sexuality.²⁰

But, when legislation that outlaws specific attitudes is enforced, there is an instant societal follow-up, indicating the correlation between the two. The disapproval grows among the population. For instance, the ban of smacking in Sweden had a tremendous impact on the percentage of parents using it as a discipline method.²¹ However, this does not necessarily show which is the cause and which the effect. It is possible that the process is not unidirectional; the legislation has an effect on the perception of violence by the society, and the other way around.

To sum up, the issue of how we understand violence is very complex. There are differences across the world; societies shape our perspective, as well as the structural conditions in which we live in. In addition, when dealing with such phenomena time is of essence. For example, rape in war used to be seen as a by-product of it, although laws regulating war disapproved of it since the beginning of time. Today, it is not viewed as another version of “men will be men”, but as a crime against humanity or war crime, depending on the setting, partly due to its widespread use in today’s era (i.e. in the Democratic Republic of Congo, Central African Republic, South Sudan, Iraq, Syria, Rwanda, the former Yugoslavia).

Feminism and Psychology, Vol. 20, No. 2, 2010, pp. 94-113, pp. 99-108; Behnke, A. O., Ames, N., Hancock, T. U., “What Would They Do? Latino Church Leaders and Domestic Violence”, *Journal of Interpersonal Violence*, Vol. 27, No. 7, 2012, pp. 1259-1275, pp. 1269-1270; Cowan, J., “Η Κατασκευή της Γυναικείας Εμπειρίας σε μια Μακεδονική Πόλη”, In Παπαταξιάρχης, Ε., *op. cit.* no. 2, pp. 127-150, p. 139; Giesbrecht, N., Sevcik, I., “The Process of Recovery and Rebuilding among Abused Women in the Conservative Evangelical Subculture”, *Journal of Family Violence*, Vol. 15, No. 3, 2000, pp. 229-248, p. 234; Koss, M. P., Dinero, T. E., “Predictors of Sexual Aggression among a National Sample of Male College Students”, *Annals of the New York Academy of Sciences*, Vol. 528, 1988, pp. 133-147, pp. 144-145; Murnen, S. K., Wright, C., Kaluzny, G., “If ‘Boys Will Be Boys’, Then Girls Will Be Victims? A Meta-Analytic Review of the Research that Relates Masculine Ideology to Sexual Aggression”, *Sex Roles*, Vol. 46, Iss. 11/12, 2002, pp. 359-375, pp. 366-367; Nasreen, H. E., Kabir, Z. N., Forsell, Y., Edhborg, M., “Prevalence and Associated Factors of Depressive and Anxiety Symptoms during Pregnancy: A Population Based Study in Rural Bangladesh”, *BMC Women’s Health*, Vol. 11, 2012; Oliveira, R. N. G., Gessner, R., Brancaglioni, B. C. A., Fonseca, R. M. G. S., Egry, E. Y., “Preventing Violence by Intimate Partners in Adolescence: An Integrative Review”, *Revista da Escola de Enfermagem da USP*, Vol. 50, No. 1, 2016, pp. 134-143; Rizo, C. F., Macy, R. J., “Help Seeking and Barriers of Hispanic Partner Violence Survivors: A Systematic Review of the Literature”, *Aggression and Violent Behavior*, Vol. 16, 2011, pp. 250-264, p. 258; Straus, M. A., Douglas, E. M., Medeiros, R. A., “The Primordial Violence: Spanking Children, Psychological Development, Violence and Crime”, Routledge, London, New York, 2014, p. 55; Umubyeyi, A., Persson, M., Mogren, I., Krantz, G., “Gender Inequality Prevents Abused Women from Seeking Care Despite Protection Given in Gender-Based Violence Legislation: A Qualitative Study from Rwanda”, *PLoS ONE*, Vol. 11, No. 5, 2016, e0154540

²⁰ Cahn, N., *op. cit.* no. 15, pp. 6, 11; Etienne, M., *op. cit.* no. 8, p. 142

²¹ Straus, M. A., *op. cit.* no. 19, pp. 53-55, 170-171, 250, 327-328; United Nations, *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Mid-Income Countries*, United Nations Children’s Fund, New York, 2010, pp. 62-63

Chapter III: Social, and individual determinants

3.1: Individual risk factors

Eighteen of the developing countries participating in a research conducted by UNICEF, where primary caregivers (mainly mothers) were asked about the use of spanking and also about whether a husband is justified in hitting his wife under specific circumstances,²² the results showed that the higher the percentage who believed husbands were indeed justified, the higher the percentage who had hit their child in the past month, indicating a correlation between the acceptance of social norms regarding the two forms of violence.²³ The increased probability of interpersonal violence and its sourcing from personal beliefs favouring it – any of its forms, whether approval of war, torture, for controlling prison inmates, between dating or marital partners, spanking for discipline of children – was found in extensive body of other researches.²⁴

Thus, it is well established that approval tends to raise the likeliness of actual use of violence, whether that is for disciplinary reasons to a misbehaving child, an incarcerated criminal, a non-compliant wife.

3.1.1: Age

Younger age has been indicative as a risk factor both for the perpetration of violence and victimization in a high number of researches.²⁵

²² These were: If she goes out without telling him, neglects the children, argues with him, refuses sex with him or burns the food.

²³ United Nations Children's Fund, *op. cit.* no. 21, p. 54

See also: Fulu, E., *op. cit.* no. 12, e519

²⁴ World Health Organization, *op. cit.* no. 12, p. 23; Laisser, R. M., *op. cit.* no. 18; Murnen, S. K., *op. cit.* no. 19, p. 366; Organization for Economic Co-Operation and Development, *The Pursuit of Gender Equality: An Uphill Battle*, p. 84; Anderson, C. A., Benjamin, A. J. J., Wood, P. K., Bonacci, A. M., "Development and Testing of the Velicer Attitudes toward Violence Scale: Evidence for a Four-Factor Model", *Aggressive Behavior*, Vol. 32, 2006, pp. 122-136; Fulu, E., Jewkes, R., Roselli, T., Garcia-Moreno, C., "Prevalence of and Factors Associated with Male Perpetration of Intimate Partner Violence: Findings from the UN Multi-Country Cross-Sectional Study on Men and Violence in Asia and the Pacific", *Lancet Global Health*, Vol. 1, 2013, e188; Garcia-Moreno, C., Jansen, H., Ellsberg, M., Heise, L., Watts, C., *WHO Multi-Country Study on Women's Health and Domestic Violence against Women. Initial Results on Prevalence, Health Outcomes and Women's Responses*, World Health Organization, Geneva, 2005, p. 40; Marolla, J., Scully, D., "Attitudes toward Women, Violence, and Rape: A Comparison of Convicted Rapists and Other Felons", *Deviant Behavior*, Vol. 7, No. 4, 1986, pp. 337-355, p. 349

²⁵ Garcia-Moreno, C., *ibid.*, p. 34; World Health Organization, *op. cit.* no. 12, p. 20; Heise, L. L., *op. cit.* no. 18, e338; Houry, D., *op. cit.* no. 25; Kernic, M. A., Holt, V. L., "Resolution of Depression among Victims of Intimate Partner Violence: Is Cessation of Violence Enough?", *Violence and Victims*, Vol. 18, No. 2, 2013, pp. 115-129, p. 120;

3.1.2: Education and resources

Higher levels of education work in a way to prevent both victimization and perpetration of violence, but also as facilitating factor towards the end of an abusive relationship. The same applies to property ownership, employment and access to resources in general. This could be due to personal beliefs disfavoured GBV, the smaller disparity of educational level between partners, or the notion that others should intervene in cases of violence.²⁶ What we should keep in mind though is that the effects in the short term might be the opposite, if the context is highly favourable to GBV. Thus, if women's employment rises in a high violence setting the risk of victimization is also rising in the short term as an act of reinstating authority, however in the long term it proves beneficial. The same can be asserted for the disparities in educational attainment.²⁷ To sum, when the power balance is distorted, it can be a trigger for conflicts and the probability of violent clashes is endorsed.²⁸

Abramsky, T., Watts, C. H., Garcia-Moreno, C., Devries, K., Kiss, L., Ellsberg, M., Jansen, H. A. F. M., Heirse, L., "What Factors are Associated with Recent Intimate Partner Violence? Findings from the WHO Multi-Country Study on Women's Health and Domestic Violence", *BMC Public Health*, Vol. 11, 2011; Gurung, S., Acharya, J., "Factor Influencing Gender Based Violence among Pregnant Women Attending Antenatal Clinic in PHC of Syangja District, Nepal", *Makara Journal of Health Research*, Vol. 19, No. 3, 2015, pp. 99-103, p. 102; Hayati, E. N., Högberg, U., Hakimi, M., Ellsberg, M. C., Emmelin, M., "Behind the Silence of Harmony: Risk Factors for Physical and Sexual Violence among Women in Rural Indonesia", *BMC Women's Health*, Vol. 11, 2011; Rahman, M., Nakamura, K., Seino, K., Kizuki, M., "Does Gender Inequity Increase the Risk of Intimate Partner Violence among Women? Evidence from a National Bangladeshi Sample", *PLoS One*, Vol. 8, Iss. 12, 2013; Salazar, M., Högberg, U., Valladares, E., Persson, L. A., "Intimate Partner Violence and Early Child Growth: A Community-Based Cohort Study in Nicaragua", *BMC Pediatrics*, Vol. 12, 2012

²⁶ Gurung, S., *ibid.*, p. 102; Hayati, E. N., *ibid.*; Salazar, M., *ibid.*; Rahman, M., *ibid.*; Abramsky, T., *ibid.*; Kernic, M. A., *ibid.*, p. 120; World Health Organization, *op. cit.* no. 12, pp. 21-22; Fulu, E., *op. cit.* no. 24, e188; Garcia-Moreno, C., *op. cit.* no. 24, p. 34; Heise, L. L., *op. cit.* no. 18, e337-338; Kalaca, S., *op. cit.* no. 19; Houry, D., *op. cit.* no. 25; Salazar, M., Valladares, E., Öhman, A., Högberg, U., "Ending Intimate Partner Violence after Pregnancy: Findings from a Community-Based Longitudinal Study in Nicaragua", *BMC Public Health*, Vol. 9; Tumwesigye, N. M., Kyomuhendo, G. B., Greenfield, T. K., Wanyenze, R. K., "Problem Drinking and Physical Intimate Partner Violence against Women: Evidence from a National Survey in Uganda", *BMC Public Health*, Vol. 12, 2012

²⁷ World Health Organization, *op. cit.* no. 12, p. 24; Abramsky, T., *op. cit.* no. 25; Heise, L. L., *op. cit.* no. 18, e338-e339; Kalaca, S., *op. cit.* no. 19; Rahman, M., *op. cit.* no. 25; Hunter, W., Jain, D., Sadowski, L. S., Sanhueza, A. I., "Risk Factors for Severe Child Discipline Practices in Rural India", *Journal of Pediatric Psychology*, Vol. 25, Iss. 6, 2000, pp. 435-447, p. 444

²⁸ Rahman, M., *op. cit.* no. 25; Umubyeyi, A., *op. cit.* no. 19; Gibbs, A., Sikweyiya, Y., Jewkes, R., "Men Value their Dignity: Securing Respect and Identity Construction in Urban Informal Settlements in South Africa", *Global Health Action*, Vol. 7, 2014, p. 23676; Macmillan, R., Gartner, R., "When She Brings Home the Bacon: Labor-Force Participation and the Risk of Spousal Violence against Women", *Journal of Marriage and Family*, Vol. 61, No. 4, 1999, pp. 947-958, pp. 953-956

3.1.3: Exposure to child maltreatment; intra-parental violence; and previous victimization

Experiencing childhood abuse and neglect, growing up in domestic violence, and perpetrating or experiencing violence in adulthood, emerge as consistently strong risk factors of legitimizing and engaging in that behaviour yet again. These experiences can end up in various schemata. Either in violence perpetration, or victimization, and can occur almost simultaneously. This draws the attention to the inter-generational transmission of violence that calls for early interventions, and to the bidirectional interconnection of incidents.²⁹ This finding is aligned with the notion that violence directed against one member of a household is associated with violence against any other member of the household, and that eliminating one form of violence can benefit all the members of the household.³⁰

²⁹ World Health Organization, *op. cit.* no. 12, pp. 22, 26; Abramsky, T., *op. cit.* no. 25; Fulu, E., *op. cit.* no. 12, e517-e518; Fulu, E., *op. cit.* no. 24, e188, e204; Giesbrecht, N., *op. cit.* no. 19, pp. 232-233; Hayati, E. N., *op. cit.* no. 25; Hunter, W., *op. cit.* no. 27, p. 442; Koss, M. P., *op. cit.* no. 19; Levitt, H. M., *op. cit.* no. 18, pp. 439, 443; Rhodes, K. V., *op. cit.* no. 12, p. 480; Bliss, M. J., Cook, S. L., Kaslow, N. J., "An Ecological Approach to Understanding Incarcerated Women's Responses to Abuse", *Women and Therapy*, Vol. 29, Iss. 3-4, 2006, pp. 97-115, p. 105; Bradley, R., Schwartz, A. C., Kaslow, N. J., "Posttraumatic Stress Disorder Symptoms among Low Income, African American Women with a History of Intimate Partner Violence and Suicidal Behaviors: Self-Esteem, Social Support, and Religious Coping", *Journal of Traumatic Stress*, Vol. 18, No. 6, 2005, pp. 685-696, p. 689; Boyer, D., Fine, D., "Sexual Abuse as a Factor in Adolescent Pregnancy and Child Maltreatment", *Family Planning Perspectives*, Vol. 24, No. 1, 1992, pp. 4-19, p. 10; Carmen, E. H., Rieker, P. P., Mills, T., "Victims of Violence and Psychiatric Trauma", *American Journal of Psychiatry*, Vol. 141, Iss. 3, 1984, pp. 378-383; Coker, A. L., Davis, K. E., Arias, I., Desai, S., Sanderson, M., Brandt, H. M., Smith, P. H., "Physical and Mental Health Effects of Intimate Partner Violence for Men and Women", *American Journal of Preventive Medicine*, Vol. 23, Iss. 4, 2002, pp. 260-268, p. 265; Ernst, A. A., Weiss, S. J., Enright-Smith, S., Hilton, E., Byrd, E. C., "Perpetrators of Intimate Partner Violence Use Significantly More Methamphetamine, Cocaine, and Alcohol than Victims: A Report by Victims", *American Journal of Emergency Medicine*, Vol. 26, 2008, pp. 592-596, pp. 593-594; Hendry, E. B., "Children and Domestic Violence: A Training Imperative", *Child Abuse Review*, Vol. 7, 1998, pp. 129-134, p. 129; Gomes, N. P., Diniz, N. M. F., Araújo, A. J. S., Coelho, T. M. F., "Understanding Domestic Violence from the Categories Gender and Generation", *Acta Paul Enferm*, Vol. 20, No. 4, 2007, pp. 504-508, p. 505; Carroll, J. C., "The Intergenerational Transmission of Family Violence: The Long-Term Effects of Aggressive Behavior", *Aggressive Behavior*, Vol. 3, 1977, pp. 289-299, pp. 294-297; Kalmuss, D., "The Intergenerational Transmission of Marital Aggression", *Journal of Marriage and Family*, Vol. 46, No. 1, 1984, pp. 11-19, pp. 14-17; Seltzer, J. A., Kalmuss, D., "Socialization and Stress Explanations for Spouse Abuse", *Social Forces*, Vol. 67, Iss. 2, 1988, pp. 473-491, p. 484; Kalmuss, D., Seltzer, J. A., "A Framework for Studying Family Socialization Over the Life Cycle: The Case of Family Violence", *Journal of Family Issues*, Vol. 10, No. 3, 1989, pp. 339-358; Straus, M. A., Yodanis, C. L., "Corporal Punishment in Adolescence and Physical Assaults on Spouses in Later Life: What Accounts for the Link?", *Journal of Marriage and Family*, Vol. 58, No. 4, 1996, pp. 825-841, pp. 832-833, 837; Teets, J. M., "Sexuality Issues of Chemically Dependent Women", In Watson, R. R., (Ed.), "Addictive Behaviors in Women", Springer Science and Media Business, New York, 1994, pp. 263-278, pp. 264-266; Williams, S. E., Martinez, E., "Psychiatric Assessment of Victims of Adolescent Dating Violence in a Primary Care Clinic", *Clinical Child Psychology and Psychiatry*, Vol. 4, No. 3, 1999, pp. 427-439, p. 429

³⁰ United Nations Children's Fund, *op. cit.* no. 21, p. 45; World Health Organization, *op. cit.* no. 12, p. 12; Fulu, E., *op. cit.* no. 12, e519; Glaser, D., *op. cit.* no. 12, p. 116

3.1.4: Alcohol and violence

Although more research is needed in order to clarify the relationship between alcohol and violence, it is widely recognized that alcohol use has been found to be problematic across cultures, countries and over time and is well-known to facilitate violence. There is a significant body of research that has shown that alcohol is often involved in both perpetrators and victims of violence, although for the latter in a lower level.³¹ The risk of being involved in a violent incident is even higher among those who consume alcohol frequently and – especially – in big quantities.³² Research done in Uganda, a country with high per capita consumption of alcohol and IPV, indicated that the women whose partners drunk often were six times more likely to be victims of IPV in comparison to those whose partners never drank alcohol. Problem drinking was the strongest correlate of IPV.³³

Research conducted with teenagers in Russia in 2012 about their opinions regarding sexual aggression, showed that among girls loss of control because of alcohol or drugs was perceived as the fifth most common reason for sexual aggression (average: 17,1%, boys: 17,9%, girls: 15,9%).³⁴ While the cognitive impairment following alcohol consumption is well-known, alcohol might as well be used as a

³¹ World Health Organization, *op. cit.* no. 12, p. 23; Abramsky, T., *op. cit.* no. 25; Boyer, D., *op. cit.* no. 29, pp. 9-10; Coker, A. L., *op. cit.* no. 29, p. 265; Fulu, E., *op. cit.* no. 24, e188; Hayati, E. N., *op. cit.* no. 25; Hester, M., *op. cit.* no. 12, p. 15; Kalaca, S., *op. cit.* no. 19; Kernic, M. A., *op. cit.* no. 25, p. 120; Koss, M. P., *op. cit.* no. 19; World Health Organization, *Intimate Partner Violence and Alcohol Fact Sheet*, World Health Organization, Geneva, 2010, pp. 1–6; Abbey, A., Ross, L. T., McDuffie, D., “Alcohol’s Role in Sexual Assault”, In Watson, R. R., (Ed.), *op. cit.* no. 29, pp. 97-123, p. 97; Browne, K. D., Reder, P., “Family Violence and Mental Health: An Inter-Agency Concern”, *Child Abuse Review*, Vol. 8, 1999, pp. 1-3, p. 1; Busch, A. L., Rosenberg, M. S., “Comparing Women and Men Arrested for Domestic Violence: A Preliminary Report”, *Journal of Family Violence*, Vol. 19, Iss. 1, 2004, pp. 49-57, pp. 53-54; Foran, H. M., O’Leary, K. D., “Alcohol and Intimate Partner Violence: A Meta-Analytic Review”, *Clinical Psychology Review*, Vol. 28, Iss. 7, 2008, pp. 1222-1234; Moller-Madsen, B., Dalgaard, J. B., Charles, A. V., Grymer, F., Hedeboe, J., Jensen, S. E. T., Moiler, B. N., Nielsen, J., Sommer, J., “Alcohol Involvement in Violence: A Study from a Danish Community”, *Z Rechtsmed*, Vol. 97, 1986, pp. 141-146; Prado Cortez, F. C., Baltieri, D. A., “Alcohol-Related Violence: An International Perspective”, In McMurrin, M., (Ed.), *op. cit.* no. 19, pp. 19-34, p. 30; Rossow, I., Bye, E. K., “The Problem of Alcohol-Related Violence: An Epidemiological and Public Health Perspective”, In McMurrin, M., (Ed.), *op. cit.* no. 19, pp. 3-18, p. 12; Rhodes, K. V., *op. cit.* no. 12, p. 480

No effect of alcohol use was found in these studies: Hellemans, S., *op. cit.* no. 12; Swahn, M. H., Bossarte, R. M., Sullivent, E. E., “Age of Alcohol Use Initiation, Suicidal Behavior, and Peer and Dating Violence Victimization and Perpetration among High-Risk, Seventh-Grade Adolescents”, *Pediatrics*, Vol. 121, No. 2, 2008, pp. 297-305, pp. 300-304

³² Foran, H. M., *ibid.*, p. 1231; Stuart, G. L., Moore, T. M., Ramsey, S. E., Kahler, C. W., “Hazardous Drinking and Relationship Violence Perpetration and Victimization in Women Arrested for Domestic Violence”, *Journal of Studies on Alcohol*, Vol. 65, Iss. 1, 2004, pp. 46-53, pp. 50-51

³³ Tumwesigye, N. M., *op. cit.* no. 26

³⁴ Sobkin, V. S., Adamchuk, D. V., “The Attitudes of Russian Teenagers toward Sexual Aggression”, *Psychology in Russia: State of the Art*, Vol. 8, Iss. 3, 2015, pp. 61-68, p. 64

relief for the responsibility, especially if there is predisposition to aggression.³⁵ What is striking although is the distinction between the emotional impact of violence associated with the use of alcohol that perpetrators and victims are experiencing. While the first ones are more likely to feel less responsible, the latter are more likely to feel that their use of alcohol has caused the attack.³⁶

Following, when it comes to family violence and the child protection services indicated in these cases, we need to bear in mind that most of the chemically dependent individuals, as they come to admit on assessment in the context of clinical interviews, have had unpleasant experiences in their family history which resulted to significant trauma. Nevertheless, the gender differentiation is apparent with women being stricken the most. So, sensitivity towards the special needs for trauma resolution is necessary and the combination of professional psychotherapy with chemical dependency treatment.³⁷

In conclusion, in settings where men are expected to consume alcohol or this behaviour is tolerated,³⁸ altering societal attitudes is important in coalescing strategies to control violence.³⁹ What the World Health Organization is suggesting is reducing access to and harmful use of alcohol.⁴⁰ It should be noted that targeting only heavy drinkers would prove insufficient, since the proportion of violent acts accounted solely to them is relatively low.⁴¹

³⁵ Issues also arise regarding the *mens rea* of the offender while committing the act.

World Health Organization, *op. cit.* no. 31, pp. 2-4; Abbey, A., *op. cit.* no. 31; Browne, K. D., *op. cit.* no. 31, p. 1; Dingwall, G., *op. cit.* no. 19, pp. 112-113; Foran, H. M., *op. cit.* no. 31, pp. 1223, 1231; Prado Cortez, F. C., *op. cit.* no. 31, p. 23; Abbey, A., "Alcohol's Role in Sexual Violence Perpetration: Theoretical Explanations, Existing Evidence and Future Directions", *Drug and Alcohol Review*, Vol. 30, Iss. 5, 2011, pp. 481-489, pp. 481, 484, 487; Koss, M. P., "Stranger and Acquaintance Rape: Are There Differences in the Victim's Experience?", *Psychology of Women Quarterly*, Vol. 12, Iss. 1, 1988, pp. 1-24, p. 21; Mann, R. E., Farmer, M., "Treatment for Alcohol-Related Sexual Violence", In McMurrin, M., (Ed.), *op. cit.* no. 19, pp. 227-244, p. 234, 237, 244; McMurrin, M., "Treatments for Offender in Prison and the Community", In McMurrin, M., (Ed.), *op. cit.* no. 19, pp. 205-225, p. 217; Scully, D., Marolla, J., "Convicted Rapists' Vocabulary of Motive: Excuses and Justifications", *Social Problems*, Vol. 31, No. 5, 1984, pp. 530-544, p. 538

³⁶ Abbey, A., *op. cit.* no. 31, pp. 114-115

³⁷ Boyer, D., *op. cit.* no. 29, p. 10; McMurrin, M., *op. cit.* no. 35, p. 210; Stuart, G. L., *op. cit.* no. 32, p. 52; Teets, J. M., *op. cit.* no. 29, pp. 264-266; Easton, C. J., "Treatments for Offenders of Intimate Partner Violence", In McMurrin, M., (Ed.), *op. cit.* no. 19, pp. 171-185, p. 179; Wallace, B. C., "Drugs/Alcohol and the Dysfunctional Family: Male/Female Differences", In Watson, R. R., (Ed.), *op. cit.* no. 29, pp. 71-96, p. 75-85

³⁸ Dingwall, G., *op. cit.* no. 19, p. 68; Macionis, J. J., *op. cit.* no. 2, pp. 328-329; Rossow, I., *op. cit.* no. 31, p. 9

³⁹ Dingwall, G., *op. cit.* no. 19, p. 75; Forrester, D., Glynn, G., "Interventions with Children and Family", In McMurrin, M., (Ed.), *op. cit.* no. 19, pp. 153-170, p. 156; Galvani, S., "Responsible Disinhibition: Alcohol, Men and Violence to Women", *Addiction Research and Theory*, Vol. 12, No. 4, 2004, pp. 357-371, pp. 367-368; Stern, E., Nyiratunga, R., "A Process Review of the Indashyikirwa Couples Curriculum to Prevent Intimate Partner Violence and Support Healthy, Equitable Relationships in Rwanda", *Social Sciences*, Vol. 6, Iss. 2, 2017

⁴⁰ Dingwall, G., *op. cit.* no. 19, pp. 73-74; World Health Organization, *op. cit.* no. 12, pp. 10-78; World Health Organization, *op. cit.* no. 31, p. 6

⁴¹ Rossow, I., *op. cit.* no. 31, p. 7

3.2: Sociological theories and social determinants

Sociological theories focus on the features of the social environment that lead to violent behaviour. There are a many sociological theories or explanations of violence, but the leading ones are strain theory, social learning theory, and control theory.

According to the first of the aforementioned theories, individuals experience certain strains or stressors; they become upset and may decide to cope through violence. Strain theorists have found that there are a number of strains that increase the likelihood of violence, but they are also examining why these factors influence specific individuals. Among the factors found to catalyze violent reactions are child abuse and neglect, school failure, economic difficulties of various sorts, peer abuse, discrimination, e.tc. When it comes to the question why some people are more prone to violent responses to these strains, strain theory is suggesting that one factor is poor social/coping skills and limited resources. Secondly, low levels of social support and the fact that the repercussions of violence are not significant for them. Lastly, having peers that condone or promote this behaviour is also of contributing essence.

Moving on to social cognitive theory, that suggests that one of the ways children learn to use and value violence is by observing and modelling the behaviour of their parents, caregivers and others of primordial significance in their life, or the media. The process through which individuals learn to engage in violence is through three ways. These persons may reward or reinforce such behaviour, they may teach beliefs favourable to it, and lastly by the use of violent means themselves.⁴²

The third one, control theory, is shifting the focus from the reasons why violence occurs and takes it for granted. What it examines is the reasons is restrained. They argue that these factors are the four following. Firstly, direct control, which is the sanctions the environment imposes, either formal, i.e. from the police, or informal, i.e. by parents. Secondly, is stake in conformity, meaning that the cost of this engagement is high, for example disapproval of family, or risking a job or a good reputation among community members. The third major control factor is beliefs about violence. If condemnation about violence is internalized, the likelihoods of engaging in such acts drops.

⁴² World Health Organization, *op. cit.* no. 12, p. 23; Abramsky, T., *op. cit.* no. 25; Eriksen, T. H., *op. cit.* no. 2, p. 115; Levitt, H. M., *op. cit.* no 18, p. 443; Bussey, K., Bandura, A., "Social Cognitive Theory of Gender Development and Differentiation", *Psychological Review*, Vol. 106, No. 4, 1999, pp. 676-713; Dores, A. P. A., "Violence in Society", *Pensamiento Americano*, Vol. 7, No. 13, 2014, pp. 144-163, p. 157; Μαζηρίδου, Ε. Π., "Ταυτότητες Φύλου στην Οικογένεια: Γονεϊκές Πεποιθήσεις και Πρακτικές και η Υποκειμενική Εμπειρία του Ανδρισμού και της Θηλυκότητας εκ Μέρους των Εφήβων", Διδακτορική Διατριβή, Αριστοτέλειο Πανεπιστήμιο Θεσσαλονίκης, Θεσσαλονίκη, 2007, pp. 271-274, 284-285, 338; Φρομ, Ε., "Για την Αγάπη της Ζωής", Εκδόσεις Μπουκουμάνης, Αθήνα, 1991, pp. 67-69

So, the bigger legitimizing of violent behaviours employed by male children might as well be indicative of the causational relation of the use of violence during adolescence and adulthood, because it leads them to think that it is an acceptable method for conflict resolution, persuasion and limits the development of non-violent problem solving skills.⁴³

What is the corner stone of the phenomenon of GBV according to my opinion is the failure to conform to gender roles. This extends from the most 'insignificant' aspects, like which hair cut is appropriate and which dressing code, to the very core of the masculine and feminine figures. The ideal male is the breadwinner, that values his dignity and gains pride from the chastity of his 'possessions' – his wife and daughters – that swears, drinks and is ready in any given time to engage into a fight. The exact opposite – because as it has been abovesaid, this is how genders are perceived – the fragile, pure woman, that is passive, wilful, takes care of her family and her whole existence revolves around them. She sacrifices her needs, and finds pleasure and fulfilment in doing so.

When individuals cannot attune to these calls they are filled with feelings of failure, disgrace, shame, frustration, entrapment, despair, emasculation. Even confusion when the signals from different agents of socialization are not identical (for example differentiation between a progressive state committed to gender equality and the preach from conservative religious communities). This can lead to violent outcomes. Perpetrators admitted that because of their own feelings of inadequacy and shame, when they perceived some behaviour as disrespectful, a threat to their masculinity, they preferred to act violently than to say they were feeling afraid. Their notion that others do not respect vulnerability, fear, and insecurities drove them to act violently instead of expressing these feelings. This way, they would re-establish control and order, which they had lost due to their inability to fulfil their mandate. In

⁴³ Levitt, H. M., *op. cit.* no. 18, p. 439; Peirce, K., Edwards, E. D., "Children's Construction of Fantasy Stories: Gender Differences in Conflict Resolution Strategies", *Sex Roles*, Vol. 18, Nos. 7/8, 1988, pp. 393-404, p. 401
See also: Forrester, D., *op. cit.* no. 39, p. 167; Straus, M. A., *op. cit.* no. 19, pp. 172-173, 233; Bandura, A., Ross, D., Ross, S. A., "Imitation of Film-Mediated Aggressive Models", *Journal of Abnormal and Social Psychology*, Vol. 66, No. 1, 1963, pp. 3-11, p. 8; Lareau, A., "Gender Differences in Parent Involvement in Schooling", In Wrigley, J., (Ed.), *ibid.*, pp. 209-227; Brody, L., "Gender, Emotion, and the Family", Harvard University Press, Cambridge, London, 2001 [1999], pp. 51, 143; Yang, G. S., Huesmann, L. R., Bushman, B. J., "Effects of Playing a Violent Video Game as Male Versus Female Avatar on Subsequent Aggression in Male and Female Players", *Aggressive Behavior*, Vol. 9999, 2014, pp. 1-5, p. 3; Thorne, B., "Girls and Boys Together... But Mostly Apart: Gender Arrangements in Elementary Schools", In Wrigley, J., (Ed.), "Education and Gender Equality", The Falmer Press, London, Washington, D.C., 1995 [1992], pp. 117-133

some cases, there is even the phenomenon of female perpetration when a spouse is unable to provide for his family as is his obligation.⁴⁴

The contention that males that are victims of family violence have firstly perpetrated it, and the stereotypical view that females cannot be (as) violent, has stoked the research of male victimization.⁴⁵ The underreporting might be a result of stigma against battered men (or traumatized men), but also the fact that the screening in hospitals is also lower.

On the other side, victims as well are overwhelmingly drowned in shame, guilt, sense of failure and the subsequent (probable) rejection and abandonment. As these derive from the socio-cultural values that construct the ideal image of the gendered self, they tend to lead to secrecy and alienation.⁴⁶

3.2.1: Violence and the media

The first effort to explore the influence of watching simulated violence to humans was performed by the behavioural psychologist Bandura. What his experiment outlined was that the groups of children that witnessed violent behaviour in real life, and on screen as live action and animation, were almost twice as aggressive as the control group. These results would lead some to conclude that the observation of violent media can cause children to be taught violent behaviour in a similar way to the

⁴⁴ World Health Organization, *op. cit.* no. 12, p. 25; Levitt, H. M., *op. cit.* no. 18, pp. 440-445; Laisser, R. M., *op. cit.* no. 18; Murnen, S. K., *op. cit.* no. 19, pp. 366-367, 370; Gibbs, A., *op. cit.* no. 28; Τάζογλου, Ε., *op. cit.* no. 3, pp. 192-193; Ehrenreich, B., "The Hearts of Men: American Dreams and the Flight from Commitment", Anchor Books/Doubleday, New York, 1983, p. 15-20; Havnor, A., "Η Ένταξη της Διάστασης του Φύλου στις Δημόσιες Πολιτικές: Η Περίπτωση της Νορβηγίας", In Στρατηγάκη, Μ., (Επ.), *op. cit.* no. 7, pp. 215-234, p. 234

⁴⁵ George, M. J., "Riding the Donkey Backwards: Men as the Unacceptable Victims of Marital Violence", *The Journal of Men's Studies*, Vol. 3, No. 2, 1994, pp. 137-159, pp. 143-147, 151; Herman, J., "Trauma and Recovery: The Aftermath of Violence – From Domestic Abuse to Political Terror", Basic Books, New York, 2015 [1992], p. 251

⁴⁶ Brownmiller, S., *op. cit.* no. 15, pp. 281, 312-313; Cahn, N., *op. cit.* no. 15, pp. 4, 16; Giesbrecht, N., *op. cit.* no. 19, pp. 234, 236, 240-241; Knickmeyer, N., *op. cit.* no. 19, pp. 107-108; Laisser, R. M., *op. cit.* no. 18; Leitão, M. N. C., *op. cit.* no. 14, p. 12; Mason, G., *op. cit.* no. 9, p. 121; Nagel, J., *op. cit.* no. 2, p. 184; Rizo, C. F., *op. cit.* no. 19, p. 254; Sideris, T., *op. cit.* no. 15, p. 43; Sobkin, V. S., *op. cit.* no. 34, p. 64; Chinkin, C. M., "Women's International Tribunal on Japanese Military Sexual Slavery", *The American Journal of International Law*, Vol. 95, No. 2, 2001, pp. 335-341, p. 341; Cowie, H., "Bystanding or Standing By: Gender Issues in Coping With Bullying in English Schools", *Aggressive Behavior*, Vol. 26, 2000, pp. 85-97, pp. 92, 95; Mouthaan, S., "International Law and Sexual Violence against Men", University of Warwick, School of Law, Legal Studies Research Paper No. 2011-02, p. 6; Kohli, A., Makambo, M. T., Ramazani, P., Zahiga, I., Mbika, B., Safari, O., Bachunguye, R., Mirindi, J., Glass, N., "A Congolese Community-Based Health Program for Survivors of Sexual Violence", *Conflict and Health*, Vol. 6, No. 6, 2012; Pérez-Tarrés, A., Cantera, L., Pereira, J., "Gender-Based Violence, Coping Strategies and Perceived Social Support", *Psicología, Conocimiento y Sociedad*, Vol. 7, No. 1, 2017, pp. 98-122, pp. 117, 119; Skyner, D. R., Waters, J., "Working with Perpetrators of Domestic Violence to Protect Women and Children: A Partnership between Chesire Probation Service and the NSPCC", *Child Abuse Review*, Vol. 8, 1999, pp. 46-54, p. 50

processes of observing it in real life events, thus eliciting favourable beliefs towards it and using it in their lives themselves.⁴⁷

Apart from this behavioural approach, others turn to the centrality of violence in our societies and that it reproduces these images into the literature body, the arts, and subsequently the media. By depicting violent scenes in movies some thoughts arise regarding the stylization of gun ownership and resort to force that is promoted through them. Weaponry is presented as glorified accessory, the focus is on the man who uses violence on a moral basis and hence becomes the hero, but also to whom is the narrative favourable while the scene unfolds. Lastly, the portrayal – exaggeration or total absence – of the consequences of these actions tends to mislead viewers as to the effect of the violent act on the stricken part.⁴⁸

Recent studies about media have incorporated video games into their methods. Although older studies had found some gender differences more recent data shows similar effect sizes for males and females.⁴⁹ So far, what we can assert with certainty is that violence portrayal in media, whichever the type, is one of the factors that desensitizes,⁵⁰ fuels or catalyzes violent thoughts, feelings, and actions and that its effect is more significant in the long-term among the younger part of the population, and in the short-term for the adult population.⁵¹ If the causal relationship between mediated

⁴⁷ Bandura, A., *op. cit.* no. 43, pp. 6-7

The United Nations Convention of the Rights of the Child states that parties shall ensure that the material passed through media is to the interest of children. United Nations, *Convention of the Rights of the Child*, General Assembly, A/RES/44/25, 1989, Article 17

⁴⁸ Archer, J., Lloyd, B. B., "Sex and Gender", Cambridge University Press, Cambridge, 2002, pp. 60, 63-64, 82; Prince, S., "Classical Film Violence: Designing and Regulating Brutality in Hollywood Cinema, 1930-1968", Rutgers University Press, New Brunswick, New Jersey, London, 2003; Craig, A., Anderson, C. A., Berkowitz, L., Donnerstein, E., Huesmann, L., Johnson, J. D., Linz, D., Malamuth, N. M., Wartella, E., "The Influence of Media Violence on Youth", *Psychological Science in the Public Interest*, Vol. 4, No. 3, 2003, pp. 81-110, p. 98; Collier, R., "After Dunblane: Crime, Corporeality, and the (Hetero-) Sexing of the Bodies of Men", *Journal of Law and Society*, Vol. 24, No. 2, 1997, pp. 177-198, p. 191; McArthur, D., Peek-Asa, C., Webb, T., Fisher, K., Cook, B., Browne, N., Kraus, J., "Violence and Its Injury Consequences in American Movies: A Public Health Perspective", *Injury Prevention*, Vol. 6, 2000, pp. 120-124

⁴⁹ Yang, G. S., *op. cit.* no. 43, p. 3; Anderson, C. A., Shibuya, A., Ihori, N., Swing, E. L., Bushman, B. J., Sakamoto, A., Rothstein, H. R., Saleem, M., "Violent Video Game Effects on Aggression, Empathy, and Prosocial Behavior in Eastern and Western Countries: A Meta-Analytic Review", *Psychological Bulletin*, Vol. 136, No. 2, 2010, pp. 151-173, p. 161

⁵⁰ The process of becoming accustomed to certain natural emotional reactions.

⁵¹ Anderson, C. A., *op. cit.* no. 49, pp. 153-155, 161-162, 165, 167-169; Craig, A., *op. cit.* no. 48, pp. 94-96; Yang, G. S., *op. cit.* no. 43, p. 3; Anderson, C. A., Carnagey, N. L., Eubanks, J., "Exposure to Violent Media: The Effects of Songs with Violent Lyrics on Aggressive Thoughts and Feelings", *Journal of Personality and Social Psychology*, Vol. 84, No. 5, 2003, pp. 960-971, pp. 963, 967, 969; Bushman, B. J., Huesmann, R., "Short-Term and Long-Term Effects of Violent Media on Aggression in Children and Adults", *Archives of Pediatrics and Adolescent Medicine*, Vol. 160, Iss. 4, 2006, pp. 348-352, pp. 349-351; Gentile, D. A., Bender P. K., Anderson C.A., "Violent Video Game Effects on

representations of violence and a violent outcome in individuals could be adamantly proven, then subsequently a case could be made for control over the media. Another important aspect is the selection process of features disseminated in the media, which is favourable to those that will attract the most attention, therefore the most violent or those that will stir up the most reactions, so they need to be presented in the analogous way.

While not apparent under the naked eye, the methods employed to present extreme incidents like mass shootings are concealing the underlying structures of our violent society and thus we do not enter into a process of challenging and abolishing them. When this 'monster' is separated from the rest of the community we are not to blame for its actions that turn against the most innocent parts of the society, usually children. The distance is drawn and s/he is a repulsive outcast; a social disorder.⁵² Examining pornography – a very much debated issue – it is viewed by some as one of the factors that promote harsh behaviour towards women. This is perpetuated by the imagery of women as sexual playthings. The difficulty to assert the cause-and-effect cannot allow for concrete conclusions.⁵³

The same can be asserted for advertisements, a field that unfortunately is so resilient to regulations. Usually, women are the ones promoting everything related to the domestic domain, while men are in more prestigious and glamorous roles. Women are often lying down, kneeling or seating on the floor, while men appear taller and more powerful. The facial characteristics exude childish innocence and naïvety for women, while competence and dominance for men.⁵⁴

As a last note, nowadays with the enormous effect of globalization and the internet, phenomena like cyber-harassment, cyber-stalking, revenge porn, brides-by-mail and sex tourism are spreading and add to the list of the hard-to-control transboundary crimes.⁵⁵

Salivary Cortisol, Arousal, and Aggressive Thoughts in Children”, *Computers in Human Behavior*, Vol. 70, 2017, pp. 39-43

⁵² Collier, R., *op. cit.* no. 48, pp. 183-186; Gatens, M., “Imaginary Bodies: Ethics, Power, and Corporeality”, Routledge, London, 1996, p. 121-122

⁵³ Koss, M. P., *op. cit.* no. 19; Macionis, J. J., *op. cit.* no. 2, p. 342; Nussbaum, M. C., *op. cit.* no. 9, p. 577; Posner, R. A., “Sex and Reason”, Harvard University Press, Cambridge, Massachusetts, London, 1998 [1992], pp. 366-367; Scully, D., “Convicted Rapists’ Perception of Self and Victim: Role Taking and Emotions”, *Gender and Society*, Vol. 2, No. 2, 1988, pp. 200-213, p. 211; Vega, V., Malamuth, N. M., “Predicting Sexual Aggression: The Role of Pornography in the Context of General and Specific Risk Factors”, *Aggressive Behavior*, Vol. 33, 2007, pp. 104-117, pp. 109-112

⁵⁴ Council of Europe, Parliamentary Assembly, *The Image of Women in Advertising*, Doc. 11286, 21.05.2017; European Union Agency for Fundamental Rights, *Challenges to Women’s Human Rights in the EU*, 2017, pp. 6-10; Goffman, E., “Gender Advertisements”, Macmillan, United Kingdom, 1985 [1979], pp. 28, 37, 40-41, 50-51

⁵⁵ Nagel, J., *op. cit.* no. 2, pp. 234-235; Rodriguez, Il., “Gender Violence in Failed and Democratic States: Besieging Perverse Masculinities”, Palgrave Macmillan, New York, 2016, pp. 191-192; Association for Progressive

Chapter IV: Religious perspectives

Our modern perceptions maintain the ones that were shaped back in the era of the interpretation of the narratives of holy texts.⁵⁶ One of the key elements that have delayed the action towards the private spheres of familial life has been the patriarchal theology, and the net of beliefs towards morality, the structures of power it has created, and gender roles it promotes. Moreover the dualism between spirit and body/nature that favours the spiritual activities and condemning the needs of the flesh.⁵⁷ The main issues that feminism has outlined regarding gender and religion were the approval of abortion and family planning, divorce, prostitution, and sexual orientation.⁵⁸

Although religion can be a coping mechanism (as noted in the next chapter), it can also work in another non-beneficial way. From research with women in a cross-denominational setting one major concept emerged. That conformity with the ideal Christian model promoted silence and denial of domestic violence, and non-alignment brought sense of failure and shame. Cited language that comes around the sacredness of the institution of marriage was one reason why they minimized abuse and initially chose to remain in abusive marriages. Other narratives, like adhering submission to male superiority were used (by them or their spouse) to condone authoritarian outcomes. The same applies also to perpetrators seeking advice and guidance towards acquiring skills to resolve conflict.⁵⁹

Communications, Humanist Institute for Cooperation with Developing Countries, *Global Information Society Watch 2015, Sexual Rights and the Internet*, Association for Progressive Communications, Humanist Institute for Cooperation with Developing Countries, USA, 2015; Tolentino, J., "Gloria Allred's Crusade: The Attorney Takes on Bill Cosby, Rape Law and Donald Trump", *The New Yorker*, 02.10.2017, Available at: https://www.newyorker.com/magazine/2017/10/02/gloria-allreds-crusade?mbid=nl_170925_Monday&CNDID=6085842&spMailingID=12001896&spUserID=MTczNTAzMjYxNzEyS0&spJobID=1242187955&spReportId=MTIOMjE4Nzk1NQs2

⁵⁶ Isherwood, L., McEwan, D., "In God's Image or in Man's Image: A Critique of Patriarchy in Christian Theology", In Kennedy, M., Lubelska, C., Walsh, V., (Eds.), "Making Connections: Women's Studies, Women's Movements, Women's Lives", Taylor and Francis, London, Washington, D.C., 2005 [1993], pp. 50-62, p. 50; Καραμάνου, Α., "Ο Ευρωπαϊκός Προσανατολισμός της Τουρκίας και η Επίδρασή του στη Θέση των Γυναικών: Από τον Κεμαλικό Εκσυγχρονισμό στο Πολιτικό Ισλάμ", In Στρατηγάκη, Μ., (Επ.), *op. cit.* no. 7, pp. 235-278, pp. 271-272

⁵⁷ Isherwood, L., *ibid.*, pp. 57-58; Καραμάνου, Α., *ibid.*, p. 253; Girard, R., *op. cit.* no. 16, p. 35; Herman, J., *op. cit.* no. 45, pp. 255-256; Levitt, H. M., *op. cit.* no. 18, pp. 439, 441; Nussbaum, M. C., *op. cit.* no. 9, p. 216-217, 223, 235; Rizo, C. F., *op. cit.* no. 19, p. 257; Inglehart, R., Pippa, N., "Rising Tide: Gender Equality and Cultural Change Around the World", Cambridge University Press, Cambridge, 2003, p. 42; Cooper-White, P., "An Emperor Without Clothes: The Church's Views about Treatment of Domestic Violence", *Pastoral Psychology*, Vol. 45, No. 1, 1996, pp. 3-20, p. 17; Φρομ, Ε., "Η Υγιής Κοινωνία", Εκδόσεις Μπουκουμάνη [Holt, Rinehart, and Winston], Αθήνα, 1973 [1956], p. 427; Κόμφορτ, Α., "Το Σεξ στην Κοινωνία", Εκδόσεις Ηλία Μανιατέα, Αθήνα, pp. 132-134

⁵⁸ Inglehart, R., *ibid.*, p. 59

⁵⁹ Knickmeyer, N., *op. cit.* no. 19, pp. 99-108; Nussbaum, M. C., *op. cit.* no. 9, p. 218

See also: Giesbrecht, N., *op. cit.* no. 19, pp. 234-236, 242; Levitt, H. M., *op. cit.* no. 18, pp. 439-440; Westenberg, L., "'When She Calls for Help'—Domestic Violence in Christian Families", *Social Sciences*, Vol. 6, Iss. 3, 2017; McMullin, S., Nason-Clark, N., Fisher-Townsend, B., Holtmann, C., "When Violence Hits the Religious Home: Raising

In a sample of Latino Church pastors two fifths perceived domestic violence as a problem that would be tackled if women changed their behaviour. This and other perceptions suggest that their approach may lead them to justify some violence, inaction, excuse of the perpetrator, or other deleterious behaviours to avoid divorce, which was last on their responses as an option for a battered woman. These point to the need for training to equip them with tools in order to help families without endangering its members or their own safety.⁶⁰ Education is imperative also because the lack of it doesn't allow for pastoral ministers to recognize the need of referrals of victims to other agencies, like advocacy groups, shelters, or the criminal justice system.⁶¹

Noting all of the aforementioned about pastoral guides and their importance since they might be the first ones an abused religious person reaches out to, they need to address their inadequacies and use the influence of the sacred texts in order to help their parishioners. To summarize, religion imposes some specific expectations upon its congregation and clergy. The first concerns women's submission and male leadership, the second centres on the sacredness of marriage, and the third connects the value of suffering to the virtue of forgiveness. Shifting the attention to other ideals preached (for example domestic peace, dignity, safety, justice, caring for those in need, compassion, life in harmony and love can help with interventions in highly religious individuals, either victims or perpetrators.

Awareness about Domestic Violence in Seminaries and amongst Religious Leaders", *Pastoral Care and Counseling*, Vol. 69, No. 2, 2015, pp. 113-124, p. 117; Roux, E., Kramm, N. Scott, N., Sandilands, M., Loots, L., Olivier, J., Arango, D., Sullivan, V., "Getting Dirty: Working with Faith Leaders to Prevent and Respond to Gender-Based Violence", *The Review of Faith and International Affairs*, Vol. 14, Iss. 3, 2016, pp. 22-35, pp. 25-28

⁶⁰ Behnke, A. O., *op. cit.* no. 19, pp. 1269-1270; Cooper-White, P., *op. cit.* no. 56, p. 13; Giesbrecht, N., *op. cit.* no. 19, pp. 235-236, 244; Rizo, C. F., *op. cit.* no. 19, p. 254

See also: McMullin, S., *ibid.*, p. 115

⁶¹ McMullin, S., *op. cit.* no. 58, p. 118

Chapter V: Consequences of violence

5.1: Mental health impact

After many misconceptions and ambivalence about the relation between mental symptomatology and victimization, there has been a progress towards understanding that the former is not the cause of the latter.⁶² The prevalence in physical and mental health problems is much higher in individuals who are exposed to violence when compared to those who are not, but also a wider spectrum of mental health problems. The risk is even greater for persons who are re-victimized. Four of the most common consequences are PTSD, which varies depending on the types of violence experienced. Secondly, other anxiety disorders, including parenting stress, depression and lastly, substance abuse. The sequelae may also include other kinds of general symptoms indicative of psychological difficulties, such as cognitive disturbance, dissociation, somatisation, eating problems, personality pathology, feelings of suicidality, or engaging in suicidal behaviour. What is important to underline is the decline in depression when violence ceases, so referrals to victims can positively impact their health.⁶³ The life-long fear should not be omitted, since it impairs freedoms, pleasures and everyday life. Individuals need to equip strategies for safety, for instance avoiding specific places.⁶⁴

⁶² Cooper-White, P., *op. cit.* no. 56, pp. 6-7; Herman, J., *op. cit.* no. 45, p. 30

⁶³ World Health Organization, *op. cit.* no. 12, pp. 3, 15-16; Barboza, G. E., *op. cit.* no. 18, p. 387; Basile, K. C., *op. cit.* 13, pp. 1-27; Bliss, M. J., *op. cit.* no. 19, p. 111; Bradley, R., *op. cit.* no. 29, p. 689; Coker, A. L., *op. cit.* no. 29, p. 265; Garcia-Moreno, C., *op. cit.* no. 24, p. 60; Giesbrecht, N., *op. cit.* no. 19, p. 240; Glaser, D., *op. cit.* no. 12, p. 119; Hellems, S., *op. cit.* no. 12, pp. 87-89; Herman, J., *op. cit.* no. 45, pp. 24-28; Houry, D., *op. cit.* no. 25; Kernic, M. A., *op. cit.* no. 25, p. 121; Kohli, A., *op. cit.* no. 46; Laisser, R. M., *op. cit.* no. 18; Nasreen, H. E., *op. cit.* no. 19; Rhodes, K. V., *op. cit.* no. 12, p. 480; Salazar, M., *op. cit.* no. 25; Salazar, M., *op. cit.* no. 26; Pinheiro, P. S., *Report of the Independent Expert for the United Nations Study on Violence against Children*, United Nations General Assembly, A/61/299, 2006, pp. 10-12; Bliss, M. J., Ogleby-Oliver, E., Jackson, E., Harp, S., Kaslow, N. J., "African American Women's Readiness to Change Abusive Relationships", *Journal of Family Violence*, Vol. 23, 2008, pp. 161-171, pp. 165-166; Dienemann, J., Boyle, E., Baker, D., Resnick, W., Wiederhorn, N., Campbell, J., "Intimate Partner Abuse among Women Diagnosed with Depression", *Issues in Mental Health Nursing*, Vol. 21, Iss. 5, 2000, pp. 499-513, p. 506; Domenech del Rio, I., Garcia del Valle, E. S., "The Consequences of Intimate Partner Violence on Health: A Further Disaggregation of Psychological Violence – Evidence from Spain", *Violence against Women*, 2016, pp. 1-19, pp. 6-11; Heise, L., "Gender-Based Abuse: The Global Epidemic", *Cadernos de Saúde Pública*, Vol. 10, Supp. 1, 1994, pp. 135-145, p. 139; Hodges, J., "Adoption and Fostering", In Skuse, D., *op. cit.* no. 12, pp. 100-105, p. 102; Houry, D., Kembell, R. S., Click, L. A., Kaslow, N. J., "Development of a Brief Mental Health Screen for Intimate Partner Violence Victims in the Emergency Department", *Academic Emergency Medicine*, Vol. 14, 2007, pp. 202-209, pp. 205-207; Houry, D., Kembell, R., Rhodes, K. V., Kaslow, N. J., "Intimate Partner Violence and Mental Health Symptoms in African American Female ED Patients", *American Journal of Emergency Medicine*, Vol. 24, 2006, pp. 444-450, pp. 446-449; Koss, M. P., Koss, P. G., Woodruff, W. J., "Deleterious Effects of Criminal Victimization on Women's Health and Medical Utilization", *Archives of Internal Medicine*, Vol. 151, Iss. 2, 1991, pp. 342-347, p. 344; Lucena, K. D. T., Vianna, R. P. T., Nascimento, J. A., Campos, H. F. C., Oliveira, E. C. T., "Association between Domestic Violence and Women's Quality of Life", *Revista Latino-Americana de Enfermagem*, Vol. 25, 2017, e2901; Miller, B. A., Whilsnack, S. C., Cunrandi, C. B., "Family Violence and Victimization: Treatment Issues

Resilience factors are those that ameliorate the negative outcomes associated with being exposed to violence and can include protective factors found in the family, friends, peers, community or social support. Their importance rises to the fact that they can mitigate the effects of the violence and help survivors put an end to it.

There are few different types of buffers to overwhelming adversity. Cognitive, motivational and spiritual, behavioural and social, family and community. Cognitive regards personal characteristics like being perceptive, having completed some level of education, having a good sense of self-esteem. Similarly, motivational and spiritual mean that if one has dreams, goals, hope and optimism, and a sense of purpose in life, if one is perseverant, independent, and not having negative religious-coping styles then the probabilities of experiencing the bad outcomes will be lowered. The third group, behavioural and social, include problem solving skills and having empathy and feelings of concern for others and oneself, but also emotion regulation. Regarding the environment, family and community play a crucial role as they are the part of social support. Positive attachments and bonds are very much needed, and especially if its members validate the experience of the victim. In addition, connection with civic organizations may be helpful, especially in cases where the victim decides to leave an abusive partner. Resources like medical, mental health, social services, law enforcement, educational should be available in order for the victim to bounce back and reintegrate to the community.⁶⁵

for Women with Alcohol Problems”, *Alcoholism: Clinical and Experimental Research*, Vol. 24, No. 8, 2000, pp. 1287-1297, p. 1290; Mitchell, M. D., Hargrove, G. L., Collins, M. H., Thompson M. P., Reddick, T. L., Kaslow, N. J., “Coping Variables that Mediate the Relation between Intimate Partner Violence and Mental Health Outcomes among Low-Income, African American Women”, *Journal of Clinical Psychology*, Vol. 62, Iss. 12, 2006, pp. 1503-1520, pp. 1512-1513; Pressly, L., “Resignation Syndrome: Sweden’s Mystery Illness”, BBC News, 26.10.2017, Available at: http://www.bbc.com/news/magazine-41748485?ocid=global_bbccom_email_26102017_magazine; Thompson, M. P., Kaslow, N. J., Kingree, J. B., Puett, R., Thompson, N. J., Meadows, L., “Partner Abuse and Posttraumatic Stress Disorder as Risk Factors for Suicide Attempts in a Sample of Low-Income, Inner-City Women”, *Journal of Traumatic Stress*, Vol. 12, No. 1, 1999, pp. 59-72, pp. 64-66; Thompson, K. M., Wonderlich, S. A., Crosby, R. D., Mitchell, J. E., “Sexual Violence and Weight Control Techniques among Adolescent Girls”, *International Journal of Eating Disorders*, Vol. 29, No. 2, 2001, pp. 166-176, pp. 170-175; Vearnals, S., Campbell, T., “Male Victims of Male Sexual Assault: A Review of Psychological Consequences and Treatment”, *Sexual and Relationship Therapy*, Vol. 16, No. 3, 2001, pp. 279-286

⁶⁴ Brownmiller, S., *op. cit.* no. 15, p. 15; Cooper-White, P., *op. cit.* no. 56, p. 11; Kelly, L., *op. cit.* no. 9, p. 42-44; Mason, G., *op. cit.* no. 9, pp. 84, 121, 147; Krahé, B., “Repression and Coping with the Threat of Rape”, *European Journal of Personality*, Vol. 13, 1999, pp. 15-26, p. 15; List, K., “Sexual Violence and Harassment against Female Student in Germany”, *Rivista di Criminologia, Vittimologia e Sicurezza*, Vol. 7, No. 2, 2013, pp. 80-99, p. 90

⁶⁵ Barboza, G. E., *op. cit.* no. 18, p. 389; Bliss, M. J., *op. cit.* no. 62, p. 168; Bradley, R., *op. cit.* no. 29, pp. 689-691; Giesbrecht, N., *op. cit.* no. 19, pp. 233-234; Heise, L. L., *op. cit.* no. 18, e338; Hellemans, S., *op. cit.* no. 12, p. 87; Houry, D., “Intimate...”, *op. cit.* no. 63; Koodoruth, I., *op. cit.* no. 7, p. 101; Lucena, K. D. T., *op. cit.* no. 63; Mitchell, M. D., *op. cit.* no. 63, pp. 1512-1513; Oliveira, R. N. G., *op. cit.* no. 19; Pérez-Tarrés, A., *op. cit.* no. 46, p. 117, 119; Skyner, D. R., *op. cit.* no. 46, pp. 51-52; Arnette, N. C., Mascaro, N., Santana, M. C., Davis, S., Kaslow, N. J.,

The likelihood that a victim would seek help, medical care or report an assault declined directly as intimacy with the perpetrator increased. When assault occurs between acquaintances (relative, spouse, date, or non romantic acquaintance) – which is the vast majority – the chances that the victim characterizes the incident as assault/rape are less likely, as it is not perceived as a crime by them.⁶⁶

When we tend to child maltreatment and adolescent pregnancies there is a number of factors that could lead to such an outcome, as proposed by Boyer. Either as an immediate result of sexual assault, incest, socialization that emphasizes on attaining self-worth through sexual activity, low self-esteem that can cause risky sexual practices, planned pregnancy as an exodus from abusive situations, and the probable defects in development due to abuse.⁶⁷

5.2: Physical health impact

In general, persons that have experienced abuse of any sort are more prone to developing chronic disease, be hospitalised and have adverse health effects. Among many, these can be injuries ranging from minor cuts to fistula, gynaecological malfunctions, pelvic pain and infections, contracting a sexually transmitted diseases, impregnation and homicide.⁶⁸

As noted above, abuse can cause imbalance in eating habits. This has been observed in adolescents experiencing DV, maternal IPV or physical maltreatment and neglect in developed countries.⁶⁹ Although the severity of the impact of food consumption anomalies cannot be undermined,

“Enhancing Spiritual Well-Being among Suicidal African American Female Survivors of Intimate Partner Violence”, *Journal of Clinical Psychology*, Vol. 63, No. 10, 2007, pp. 909-924, pp. 918-919; Hail-Jares, K., Chang, R. C. F., Choi, S., Zheng, H., He, N., Huang, Z. J., “Intimate-Partner and Client-Initiated Violence among Female Street-Based Sex Workers in China: Does a Support Network Help?”, *PLoS ONE*, Vol. 10, Iss. 9, 2015, e0139161; Meadows, L. A., Kaslow, N. J., Thompson, M. P., Jurkovic, G. J., “Protective Factors against Suicide Attempt Risk among African American Women Experiencing Intimate Partner Violence”, *American Journal of Community Psychology*, Vol. 36, Nos. ½, 2005, pp. 109-121, pp. 115-116

⁶⁶ Kelly, L., *op. cit.* no. 9, p. 50; Koss, M. P., *op. cit.* no. 35, pp. 7, 13-14, 18; Franzoi, N. M., Serpa da Fonseca, R. M. G., Guedes, R. N., “Gender-Based Violence: Conceptions of Professionals on the Family Health Strategy’s Teams”, *The Revista Latino-Americana de Enfermagem*, Vol. 19, No. 3, pp. 589-97, p. 594; List, K., *op. cit.* no. 63, pp. 90-91

⁶⁷ Boyer, D., *op. cit.* no. 29, pp. 6, 11; Glaser, D., *op. cit.* no. 12, p. 119

⁶⁸ World Health Organization, *op. cit.* no. 12, p. 3; Basile, K. C., *op. cit.* no. 13, p. 9; Garcia-Moreno, C., *op. cit.* no. 24, pp. 56-57; Franzoi, N. M., *op. cit.* no. 66, p. 591; Heise, L., *op. cit.* no. 63, p. 139; Koss, M. P., *op. cit.* no. 63, p. 344; Ruiz-Pérez, I., Plazaola-Castaño, J., Río-Lozano, M., “Physical Health Consequences of Intimate Partner Violence in Spanish Women”, *European Journal of Public Health*, Vol. 17, No. 5, 2007, pp. 437-443, p. 439; Stöckl, H., Devries, K., Rotstein, A., Abrahams, N., Campbell, J., Watts, C., Moreno, C. G., “The Global Prevalence of Intimate Partner Homicide: A Systematic Review”, *Lancet*, Vol. 382, 2013, pp. 859–865, pp. 862-864

⁶⁹ Boynton-Jarrett, R., Fagnoli, J., Suglia, S. F., Zuckerman, B., Wright, R. J., “Association between Maternal Intimate Partner Violence and Incident Obesity in Preschool-Aged Children: Results From the Fragile Families and

it is well established that this behaviour has an association with the effort of the individual to gain control over his/her life and other more complex mechanisms are in interaction.

Moving to another group, research in global scale suggests that pregnancy does not stop maltreatment. When pregnant women experience GBV, there is a higher likelihood of miscarriage,⁷⁰ premature labour,⁷¹ low birth weight or impaired child development,⁷² and infant death.⁷³ Psychosocial risk factors are important for ensuring the health and safety of the mother and the foetus. In research conducted with children born with gastroschisis, the results suggest that maternal age and living under stressful conditions during periconceptional time are associated with the onset of the disease.⁷⁴

What is astounding to acknowledge – but not itself surprising – is that aggression has a negative impact on the perpetrators' health too. In order to align to the social norms of aggressiveness, male tend to engage in dangerous acts and activities, which contribute to higher risk of accidents, violent behaviour, substance abuse and suicide. Gang violence, substance abuse, risky sexual behaviour as noted earlier are implicitly connected with compromised health. The character's traits like impatience; stress; ambition; and the frequent outbursts of hostility that doctors call 'coronary-prone behaviour' are the common characteristics of maleness. All of the above are well-known factors for heart disease.⁷⁵

Child Well-Being Study", *Archives of Pediatrics and Adolescent Medicine*, Vol. 164, No. 6, 2010, pp. 540–546, pp. 543-544; Greenfield, E. A., Marks, N. F., "Violence from Parents in Childhood and Obesity in Adulthood: Using Food in Response to Stress as a Mediator of Risk", *Social Science and Medicine*, Vol. 68, Iss. 5, 2009, pp. 791-798, pp. 795-796; Jun, H. J., Corliss, H. L., Boynton-Jarrett, R., Spiegelman, D., Austin, S. B., Wright, R. J., "Growing Up in a Domestic Violence Environment: Relationship with Developmental Trajectories of Body Mass Index during Adolescence into Young Adulthood", *Journal of Epidemiology and Community Health*, Vol. 66, 2011, pp.629-635, pp. 631-632; Mößle, T., Kliem, S., Lohmann, A., Bergmann, M. C., Baier, D., "Differential Influences of Parenting Dimensions and Parental Physical Abuse during Childhood on Overweight and Obesity in Adolescents", *Children*, Vol. 4, No. 17, 2017

⁷⁰ Campbell, J. C., "Health Consequences of Intimate Partner Violence", *The Lancet*, Vol. 359, No. 9314, 2002, pp. 1331–1336

⁷¹ Shumway, J., O'Campo, P., Gielen, A., Witter, F. R., Khouzami, A. N., Blakemore, K. J., "Preterm Labor, Placental Abruption, and Premature Rupture of Membranes in Relation to Maternal Violence or Verbal Abuse", *The Journal of Maternal-Fetal Medicine*, Vol. 8, 1999, pp. 76–80

⁷² Salazar, M., *op. cit.* no. 25

⁷³ Gurung, S., *op. cit.* no. 25, p. 100

⁷⁴ Ortega-García, J. A., Soldin, O. P., Sánchez-Sauco, M. F., Cánovas-Conesa, A., Gomariz-Penalver, V., Jaimes-Vega, D. C., Perales, J. E., Cárceles-Alvarez, A., Martínez-Ros, M. T., Ruiz, D., "Violence against Women and Gastroschisis: A Case-Control Study", *International Journal of Environmental Research and Public Health*, Vol. 10, 2013, pp. 5178-5190

⁷⁵ Herman, J., *op. cit.* no. 45, p. 252; Macionis, J. J., *op. cit.* no. 2, pp. 329, 348, 546; Karner, T. X., "Engendering Violent Men: Oral Histories of Military Masculinity", In Bowker, L. H., (Ed.), "Masculinities and Violence", Sage Publications, California, 1998, pp. 197-232, pp. 216-230; Peterson, V. S., Runyan, A. S., "Global Gender Issues", Westview Press, Colorado, 1999, p. 118; Connell, R., "Masculinities", University of California Press, New York, Berkeley, 2005 [1995], pp. 93-109

PART II: Addressing violence

Chapter VI: Controlling violence

GBV is a complex phenomenon that sources from power imbalances; gender role expectations; and social institutions, and affects individuals in their course of life. Any effort to abolish this sickening injustice should be incorporating all the levels, societal, communal, and individual. As it was laid out in the first part, the causes are multilayered, and the responses need to integrate various sectors and actors to be efficient and effective.

A multilateral approach is necessary when working with such a complex societal pathology. Working collectively with educational institutions, medical workers, media, social services, law enforcement, and other sectors that play a pivotal role, but indeed the willingness and expertise of those in authoritative positions is also a factor in the efforts to eliminate GBV. The policies need to have two focal points, equally important, survivors' empowerment and abusers' rehabilitation.

6.1: Primary prevention, deterrence, and youth prevention

Intervention programs implemented in schools, and especially those targeted at families, proved to be efficient in preventing DV among adolescents.⁷⁶

Early crime prevention, such as pre-school programmes and family interventions, can prove beneficial later-on in the course of life beyond the scope of crime reduction. For example, they can have an impact on substance use and mental health, boost education outcomes and employment prospects.⁷⁷ Given the way that youth masculinity intersects with other deviant practices, interventions need to employ different techniques that address alcohol and drug use, risky sexual behaviour, petty crime

⁷⁶ Oliveira, R. N. G., *op. cit.* no. 19; Straus, M. A., *op. cit.* no. 29, p. 838; Anderson, L. A., Whiston, S. C., "Sexual Assault Education Programs: A Meta-Analytic Examination of their Effectiveness", *Psychology of Women Quarterly*, Vol. 29, 2005, pp. 374-388, pp. 381-384; Hagemann-White, C., *External Evaluation Final Report, Gender Equality Awareness Raising against Intimate Partner Violence II*, 2017; Herbert, C., "Researching Adolescent Girls' Perceptions of Unwanted Sexual Attention", In Kennedy, M., Lubelska, C., Walsh, V., (Eds.), "Making Connections: Women's Studies, Women's Movements, Women's Lives", Taylor and Francis, London, Washington, D.C., 2005 [1993], pp. 88-100, p. 98; Wolfe, D. A., Crooks, C., Jaffe, P., Chiodo, D., Hughes, R., Ellis, W., Stitt, L., Donner, A., "A School-Based Program to Prevent Adolescent Dating Violence: A Cluster Randomized Trial", *Archives of Pediatrics and Adolescent Medicine*, Vol. 163, Iss. 8, 2009, pp. 692-699, p. 695

⁷⁷ Williams, S. E., *op. cit.* no. 29, p. 435; Welsh, B. C., Farrington, D. P., "The Benefits and Costs of Early Prevention Compared with Imprisonment: Toward Evidence-Based Policy", *The Prison Journal*, Vol. 91, Iss. 3, Supp., 2011, pp. 120S-137S, pp. 124S-126S

e.tc.⁷⁸ The phenomenon is expressed as a continuum and early intervention and prevention is the most effective policy.

But prevention alone will not be able to uproot the problem, so cure is also an aspect.⁷⁹

6.2: Working with perpetrators

When multiple deviant behaviours co-exist, there is a need to assess them at the same time. For example, if use of alcohol or drugs co-exists with violence, then the services need to address them both.⁸⁰ Whether other needs are present, physical or mental, social deprivation, those should also be incorporated. This requires a flexible yet structured curriculum that is based on individual needs.⁸¹

In order to reduce subsequent violence, the empathetic and client-oriented approach could prove to be the most effective.⁸² The core of the issue though should not be omitted. To successfully alter the controlling behaviours of offenders psychoeducation structure that emphasizes on identifying and challenging unhealthy lifestyle, that offers alternatives and models of conflict resolution without resort to force are targeting the route problem of GBV.⁸³

What was astounding in research done with convicted rapists was their lack of remorse, at least at the majority of them. Moreover, their perception of the incident was distorted and the cultural stereotypes underpin their side of the story. The ones that realised the impact of their actions took pleasure in the effect they had on the victim. The rest couldn't see past the misconceptions that women do want to be dominated or raped and narrated that the intercourse was enjoyed by them. But, had an act like that been inflicted upon one of their loved ones, they would react in anger and violence.⁸⁴

⁷⁸ Gibbs, A., *op. cit.* no. 28; Barker, G., Ricardo, C., Nascimento, M., Olukoya, A., Santos, C., "Questioning Gender Norms with Men to Improve Health Outcomes: Evidence of Impact", *Global Public Health*, Vol. 5, Iss. 5, 2010, pp. 539-553, pp. 545-546

⁷⁹ McMurrin, M., "Alcohol-Related Violence: An Endnote", In McMurrin, M., (Ed.), *op. cit.* no. 19, pp. 337-340, p. 338

⁸⁰ Forrester, D., *op. cit.* no. 39, pp. 164-165; Galvani, S. A., "Safety in Numbers? Tackling Domestic Abuse in Couples and Network Therapies", *Drug and Alcohol Review*, Vol. 26, 2007, pp. 175-181, pp. 178-180

⁸¹ Mann, R. E., *op. cit.* no. 35, p. 241, 245; McMurrin, M., *op. cit.* no. 35, p. 220

⁸² Forrester, D., *op. cit.* no. 39, pp. 166

⁸³ Easton, C. J., *op. cit.* no. 37, p. 172; Edin, K., Nilsson, B., "Men's Violence: Narratives of Men Attending Anti-Violence Programmes in Sweden", *Women's Studies International Forum*, Vol. 46, 2014, pp. 96-106

⁸⁴ Marolla, J., *op. cit.* no. 24, pp. 343, 347-350; Nussbaum, M. C., *op. cit.* no. 9, p. 315; Scully, D., *op. cit.* no. 53, pp. 205-211; Scully, D., *op. cit.* no. 35, pp. 533-536; Salter, M., "Invalidation: A Neglected Dimension of Gender-Based Violence and Inequality", *International Journal for Crime and Justice*, Vol. 1, No. 1, 2012, pp. 3-13, p. 5

After evaluation of programmes working with offenders, the improvement in their attitudes is significant, and low rates of reconviction on the same family of crimes are reported.⁸⁵ This is expressed by the participants themselves and their partners and families. The experience of sharing, challenging their perception and having a breakthrough; and the realisation that other people share the same feelings of guilt has proved beneficial and healing, although the persistence of societal norms doesn't allow a share of them to engage into the process for not feeling vulnerable or exposed.⁸⁶

Lastly, the importance of faith representatives should be mentioned. Because highly religious persons admire the input coming from spiritual leaders, there is potentially a positive output, whether in individual level or while working with bigger groups, and it should be treated as a vital piece for the implementation of such projects.⁸⁷

6.3: Working with survivors

Realizing that someone is being maltreated is of essence. The most difficult form to recognize is psychological violence and takes the longest to realize and decide to depart and this is partly due to the external perceptions about 'real' violence.⁸⁸

The discussion about the unwillingness of victims to leave is extremely lengthy and riven by emotions. The most common tactic employed by them is avoiding further incidents among other formal and informal responses. In addition, there can be a range of practical reasons the victim is considering that halter the exit from an abusive relationship. Being left without resources, changing residence, immigrant status, being a single parent, and custody issues.⁸⁹ At the same time, the victim can be

⁸⁵ For example: Improvement had been noted by the external evaluation in the perpetrators' attitudes to the offence, their acceptance that they were in control of their actions, improvements in their attitudes towards women, and that progress was made with even those considered at the start of the programme to be the most intractable of cases. See Skyner, D. R., *op. cit.* no. 46, pp. 46-54

Hester, M., Lilley, S. J., *Domestic and Sexual Violence Perpetrator Programmes: Article 16 of the Istanbul Convention. A Collection of Papers on the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, Council of Europe, Strasbourg, 2014, pp. 11, 21

⁸⁶ Skyner, D. R., *op. cit.* no. 46, pp. 52-53; Sikweyiya, Y., Jewkes, R., "Perceptions and Experiences of Research Participants on Gender-Based Violence Community Based Survey: Implications for Ethical Guidelines", *PLoS One*, Vol. 7, Iss. 4, 2012

⁸⁷ Levitt, H. M., *op. cit.* no. 18, pp. 442-443; McMullin, S., *op. cit.* no. 59, p. 119

⁸⁸ Bliss, M. J., *op. cit.* no. 63, p. 167; Bliss, M. J., *op. cit.* no. 29, p. 109; Kelly, L., *op. cit.* no. 9, p. 48; Leitão, M. N. C., *op. cit.* no. 14, p. 11; Organization for the Security and Co-Operation in Europe, *Domestic Violence Survey in the Republic of Armenia*, 2012, pp. 30-31

⁸⁹ Organization for the Security and Co-Operation in Europe, *ibid.*, p. 39; Bliss, M. J., *op. cit.* no. 63, p. 168; Bliss, M. J., *op. cit.* no. 29, p. 108; Forrester, D., *op. cit.* no. 39, p. 162; Kelly, L., *op. cit.* no. 9, pp. 47-48; Rizo, C. F., *op. cit.* no.

emotionally torn up against the two different faces of the perpetrator and the idealization of the relationship. On the one hand violent, on the other attentive and regretful. If alcohol is involved, it can be used as a scapegoat making it even harder to identify the real cause of the problem.⁹⁰

An event involving their safety or their dependants' is some sort of break-through. More robustly, when victims' normative beliefs and attitudes toward gender roles and violence change that is when abuse ends. Also, favourable thinking about intervention outside from the familial context is catalyzing.⁹¹ Simultaneously, there is a desperate need for social support. Psychological assessments and sessions to empower the person, reconstruction of their identity, re-establish relationships, shelters in order to cover the need for housing, access to resources and counselling for minors. From the entry into the relationship till the end of the abuse, the timeline can range from a few years to decades.⁹²

As was noted in regards to the Women's International Tribunal addressing the acts of sexual slavery committed by the Japanese military forces, the public acknowledgement helps with the feelings of guilt and shame, provides closure, henceforth is beneficial for the population affected by such atrocities.⁹³ This effect of catharsis has been noted in other researches as well, so the fact that light is shed and the survivor no longer lives in secrecy – although painful and overwhelming in some instances – brakes the chain of covering up and pretending, which earlier consumed so much of their energy and sacrificed their personality itself.⁹⁴

The role of religion in persons that value the preaching is important as to examining the teachings that have been used by abusive partners and communities. It is essential to re-interpret some

19, pp. 257-258, 260-261; Umubyeyi, A., *op. cit.* no. 19; Turan, J. M, Hatcher, A. M., Otero, M., Onono, M., Koderu, J., Romito, P., Mangone, E., Bukusi, E. A., "A Community-Supported Clinic-Based Program for Prevention of Violence against Pregnant Women in Rural Kenya", *AIDS Research and Treatment*, Hindawi Publishing Corporation, Vol. 2013; Amnesty International, *Women, Violence and Poverty – Breaking Out of the Gender Trap*, 25.11.2009, Available at: <https://www.amnesty.org/en/latest/news/2009/11/women-violence-and-poverty-20091125>

⁹⁰ Forrester, D., *op. cit.* no. 39, p. 162; Leitão, M. N. C., *op. cit.* no. 14, p. 11-12; Pérez-Tarrés, A., *op. cit.* no. 46, pp. 107-109

⁹¹ Bliss, M. J., *op. cit.* no. 29, p. 108; Garcia-Moreno, C., *op. cit.* no. 24, p. 78; Giesbrecht, N., *op. cit.* no. 19, p. 241; Kelly, L., *op. cit.* no. 9, p. 48; Rizo, C. F., *op. cit.* no. 19, p. 254; Salazar, M., *op. cit.* no. 26

⁹² Giesbrecht, N., *op. cit.* no. 19, p. 240; Leitão, M. N. C., *op. cit.* no. 14, pp. 11-12

⁹³ Chinkin, C. M., *op. cit.* no. 46, p. 339; Nyman, A., Svensson, B., "Boys – Sexual Abuse and Treatment", Jessica Kingsley Publishers, London, 1997 [1995], pp. 59-60

⁹⁴ Giesbrecht, N., *op. cit.* no. 19, p. 240; Herman, J., *op. cit.* no. 45, p. 8; Leitão, M. N. C., *op. cit.* no. 14, pp. 11-12; Rizo, C. F., *op. cit.* no. 19, p. 254; Sikweyiya, Y., *op. cit.* no. 86; United Nations, *Uncovering the Untold Stories of Sexual and Gender-Based Violence in Conflict*, United Nations Entity for Gender Equality and the Empowerment of Women, 27.10.2017, Available at: <http://www.unwomen.org/en/news/stories/2017/10/take-five-aurelie-roche-mair>

of the writings and put them in perspective; re-establish a relationship with God and a new belief system that prioritizes their safety over the sanctity of marriage.⁹⁵

6.4: Enforcing communities

For starters, validation is a fundamental precondition in order to establish a coherent reality for the survivor. Invalidation of his/her experience by the offender, his/her relatives or peers, the law enforcement agencies or the judicial system can be devastating for a person in pain that has been violated and s/he is the one whose testimony is in question, and can preclude reporting and help seeking.⁹⁶ Hence, interventions are necessary across sectors to abolish the misconceptions and stigma that accompanies situations of interpersonal violence.

To start with one of the pillars, the impact of domestic violence on the workplace has been observed. Where employers can intervene is by providing assistance to both survivors and perpetrators. As has been realized, workplace policies that target sensitizing and supporting survivors need to involve several key actors, like NGOs, police services, social security officers, healthcare workers, e.tc.⁹⁷

The role of the health sector is important, because many victims end up in the emergency room or seek help for the defects aforementioned. Hence trainings in order to recognize the signs, but at the same time alter the stereotypes perpetuated by healthcare employees should be a priority, as well as having coordinated and uniform responses in the processes involved in screening and referring. Equipping ER with computers for screening is a cost-effective way to screen for interpersonal violence; it can achieve higher rates of disclosure as well as mental health symptoms ensuring safety and lastly, to get-through information to patients about referrals and resources.⁹⁸

⁹⁵ Giesbrecht, N., *op. cit.* no. 19, p. 240; Knickmeyer, N., *op. cit.* no. 19, p. 110

⁹⁶ Dienemann, J., *op. cit.* no. 63, p. 506; Kelly, L., *op. cit.* no. 9, p. 51; Salter, M., *op. cit.* no. 84, pp. 5-6, 10

⁹⁷ Koodoruth, I., *op. cit.* no. 7, pp. 98-100; United Nations, *In Georgia, Businesses Step Up to Support Survivors of Domestic Violence Get a Fresh Start*, United Nations Entity for Gender Equality and the Empowerment of Women, 14.11.2017, Available at: <http://www.unwomen.org/en/news/stories/2017/11/feature--georgia-businesses-step-up-to-support-survivors>; United Nations, *UNFPA Strategy and Framework for Action to Addressing Gender-Based Violence 2008-2011*, Gender, Human Rights and Culture Branch, UNFPA Technical Division, p. 16; Vladila, L. M., "Again about Gender-Based Violence in Romania Legislative Modifications Promulgated on March 2012", *Challenges of the Knowledge Society*, Vol. 3, 2013, pp. 128-136, pp. 134-135; Lippel, K., *Addressing Occupational Violence: An Overview of Conceptual and Policy Considerations Viewed through a Gender Lens*, International Labour Office, Geneva, 2016, pp. 13-14, 28-32

⁹⁸ Franzoi, N. M., *op. cit.* no. 66, p. 591; Heise, L., *op. cit.* no. 63, p. 141; Houry, D., *op. cit.* no. 25; Houry, D., "Development...", *op. cit.* no. 63, p. 207; Houry, D., "Intimate...", *op. cit.* no. 63, pp. 449; Rhodes, K. *op. cit.* no. 12,

Of tremendous impact can be the family interventions where there is a context that condones violence. In addition, community interventions that target the norms that preclude equality and impose barriers in empowerment. Raising awareness about the issue, offering alternative and healthy responses to “turmoil” occurring in interpersonal relationships, removing the veil of secrecy, the stigma and acknowledging this pathogenic behaviour, and in general break the stereotypes that corroborate GBV.⁹⁹ When resources are scarce, the collaboration and mobilization of the community is crucial. Challenging the norms and engaging the social net into the combat can raise the effectiveness of any programme targeting only a fraction of the population, and can have a multiplying effect, as the beneficiaries living in unfavourable contexts find it difficult to maintain the attitudes and skill set obtained.¹⁰⁰

6.5: Criminal justice system, and law enforcement

When male college students were asked if they would proceed to rape if assured they would not be prosecuted, more than a third asserted that they would, especially if they were prone to rape-supportive beliefs and attitudes.¹⁰¹ This points to the fact that criminal procedures are necessary in

p. 480; Colombini, M., Mayhew, S. H., Ali, S. H., Shuib, R., Watts, C., “An Integrated Health Sector Response to Violence against Women in Malaysia: Lessons for Supporting Scale Up”, *BMC Public Health*, Vol. 12, 2012

⁹⁹ World Health Organization, *op. cit.* no. 12, p. 30; Franzoi, N. M., *op. cit.* no. 66, p. 594; Fulu, E., *op. cit.* no. 12, e513; Hayati, E. N., *op. cit.* no. 25; Kohli, A., *op. cit.* no. 46; Stern, E., *op. cit.* no. 39; Rahayu, N. S., “Raising Awareness of Gender-Based Violence on Heaven Earth”, *European Journal of Sustainable Development*, Vol. 5, No. 3, 2016, pp. 440-444, pp. 442-443; United Nations, *Not Just a Women’s Issue: Men in Myanmar Take on Gender-Based Violence*, United Nations Entity for Gender Equality and the Empowerment of Women, 16.12.2016, Available at: <http://www.unfpa.org/news/not-just-womens-issue-men-myanmar-take-gender-based-violence>; United Nations, *To End Violence against Women, Cambodian Project Teaches Healthy Relationships*, United Nations Entity for Gender Equality and the Empowerment of Women, 20.07.2017, Available at: <http://www.unfpa.org/news/end-violence-against-women-cambodian-project-teaches-healthy-relationships>; Das Gupta, M., *‘Missing Girls’ in the South Caucasus Countries: Trends, Possible Causes, and Policy Options*, World Bank Group, Poverty Global Practice Group, Policy Research Working Paper 7236, 2015, pp. 9-10; Bryson, V., “Perspectives on Gender Equality. Challenging the Terms of Debate”, In Browne, J., (Ed.), “The Future of Gender”, Cambridge University Press, Cambridge, 2007, pp. 35-53, p. 45; Cowdery, R. S., Knudson-Martin, C., “The Construction of Motherhood: Tasks, Relational Connection, and Gender Equality”, *Family Relations*, Vol. 54, 2005, pp. 335-345, pp. 343-344

¹⁰⁰ Laisser, R. M., *op. cit.* no. 18; Stern, E., *op. cit.* no. 39; Turan, J. M., *op. cit.* no. 89; Φρομ, E., *op. cit.* no. 57, p. 87; Douglas, U., Bathrick, D., Perry, P. A., “Deconstructing Male Violence against Women: The Men Stopping Violence Community-Accountability Model”, *Violence against Women*, Vol. 14, No. 2, 2008, pp. 247-261; Sideris, T., “Men, Identity and Power. A Case Study of the Re-Invention of ‘Tradition’: Implications for Involving Men in Training and Education about Gender”, *Agenda: Empowering Women for Equity*, No. 60, Contemporary Activism?, 2004, pp. 88-93, pp. 91-92; Σακκά, Δ., “Παλινόστηση: Η Αντίληψη του Ατόμου για την Ισχύουσα Κοινωνική Πραγματικότητα και η Διαμόρφωση των Ρόλων των Δύο Φύλων”, *Ψυχολογία*, Vol. 6, Iss. 2, 1999, pp. 236-246, pp. 238-241

¹⁰¹ Sample of 172 male junior college students. Tieger, T., “Self-Rated Likelihood of Raping and the Social Perception of Rape”, *Journal of Research in Personality*, Vol. 15, 1981, pp. 147-158, p. 154

order to make the choice less appealing. There is tension between different approaches to criminal activity. A holistic approach that incorporates all the levels might be the answer to address the needs for punishment, rehabilitation, and (national) reconciliation, targeting offenders, victims, and community. As long as the penal system alienates the criminal as an abnormal individual whom we solely blame for his/her behaviour, then the underlying causes will continue to perpetuate violence if not eradicated. But we shouldn't excuse perpetrators in an effort to tackle the root causes of the problem of GBV.¹⁰²

Scholars point to the importance of punishing due to its multiple effect: retribution, deterrence, rehabilitation and safeguarding the society. Retribution is called upon the need to restore the balance when harm has been although there is little evidence of reform of the offender. Secondly, appropriate legislation as we noted above can discourage criminality and thus punishing the wrongdoer works accumulatively both for individuals and the body of the society. Rehabilitation can be achieved through programmes in order to prevent future offences and is tailored to individual needs. For the last part, the fact that the offender is incarcerated impairs him/her of the ability to proceed to further offences.¹⁰³

But, the harsh reality is that most victims do not perceive the criminal processes as an appropriate route. Sometimes they can even be untenable. Apart from the fact that they themselves tend to minimize or even negate their experiences in response to what the law recognizes as criminal activity, and thus do not proceed to report abusive incidents – more specifically, when 'actual' rape or severe physical violence is not suffered, then the victim dismisses the event¹⁰⁴ – the impregnation of police officers, lawyers and judges with stereotypes that blur their judgement, makes the prosecution of offences a real tour de force. Through institutions – which were created and are vastly 'populated' by

Sample of 352 male psychology students. Briere, J., Malamuth, N. M., "Self-Reported Likelihood of Sexually Aggressive Behavior: Attitudinal versus Sexual Explanations", *Journal of Research in Personality*, Vol. 17, 1983, pp. 315-323, pp. 318-319

¹⁰² Cahn, N., *op. cit.* no. 15, pp. 1-2, 4; Gatens, M., *op. cit.* no. 52, pp. 344, 349-350; Φρομ, Ε., "Ο Άνθρωπος για τον Εαυτό του: Έρευνα στην Ψυχολογία της Ηθικής", Εκδόσεις Μπουκουμάνη, Αθήνα, 2006 [1947], pp. 267-270; Batuman, E., "Searching for Motives in Mass Shootings", *The New Yorker*, 27.11.2017, Available at: https://www.newyorker.com/news/daily-comment/searching-for-motives-in-mass-shootings?mbid=nl_Daily%20112717%20Nonsubs&CNDID=6085842&spMailingID=12446149&spUserID=MTczNTAzMjYxNzEyS0&spJobID=1282480422&spReportId=MTI4MjQ4MDQyMgS2; Rutherford, A., "Sexual Offenders and the Path to a Purified Domain", In Downes, D., Rock, P., Chinkin, C., Gearty, C., (Eds.), "Crime, Social Control and Human Rights: From Moral Panics to States of Denial. Essays in Honour of Stanley Cohen", Willan Publishing, Oregon, 2007, pp. 66-80, pp. 67-68

¹⁰³ Macionis, J. J., *op. cit.* no. 2, pp. 212-214

¹⁰⁴ Cahn, N., *op. cit.* no. 15, p. 5; Herbert, C., *op. cit.* no. 76; Etienne, M., *op. cit.* no. 8, p. 160; Kelly, L., *op. cit.* no. 9, pp. 41-46; Stenning, P., *op. cit.* no. 13, pp. 104, 111-112; Borer, T. A., "Gendered War and Gendered Peace: Truth Commissions and Postconflict Gender Violence: Lessons from South Africa", *Violence against Women*, Vol. 15, No. 10, pp. 1169-1193, p. 1173

men – the malestream view embodies and reproduces constructed knowledge of GBV that does not reflect what the victims are living and feeling.¹⁰⁵ In order for someone to be recognized as a victim s/he needs to fall into the hetero-social order.¹⁰⁶ Moreover, there are different types of cognitive styles of coping with violence. Repressing and diverting feelings is one of them, so as to avoid negative emotional stimuli and high threatening cues.¹⁰⁷ In addition, one of the downsides of criminal law is the explicit focus on the defendant and safeguarding his/her rights during proceedings. We shouldn't be oblivious to the wide range of needs of victims, their safety and preventing re-victimization.¹⁰⁸

From the other side, the gender stereotypes intersect with societal reaction to deviance.¹⁰⁹ Research regarding domestic homicides has showed the disparities between the treatment of male and female offenders, which is favourable to the former, and the sexism that entrenches the justice system. A female killer is an apparatus of opposition to gender norms. Moreover, the interpretation of the crime is with male lenses. Women tend to respond not immediately, but at a belated moment, so they are

¹⁰⁵ Organization for the Security and Co-Operation in Europe, *op. cit.* no. 88, pp. 46-47; Brownmiller, S., *op. cit.* no. 15, pp. 366, 386-387; Charlesworth, H., *op. cit.* no. 4, pp. 621-622; Etienne, M., *op. cit.* no. 8, p. 154-155; Gatens, M., *op. cit.* no. 52, p. 42; Kelly, L., *op. cit.* no. 9, p. 40; Nussbaum, M. C., *op. cit.* no. 9, pp. 336-337; Rahayu, N. S., *op. cit.* no. 99, pp. 442-443; Κραβαρίτου, Γ., *op. cit.* no. 4, p. 14; Cusack, S., *Eliminating Judicial Stereotyping: Equal Access to Justice for Women in Gender-Based Violence Cases*, Final Paper Submitted to the Office of the High Commissioner for Human Rights, 09.06.2014; Youngs, G., "Private Pain/Public Peace: Women's Rights as Human Rights and Amnesty International's Report on Violence against Women", *Signs*, Vol. 28, No. 4, 2003, pp. 1209-1229, p. 1222; Charlesworth, H., Chinkin, C., "The Boundaries of International Law: A Feminist Analysis", Manchester University Press, Manchester, 2000, pp. ix-x, 17-18

¹⁰⁶ Brownmiller, S., *op. cit.* no. 15, p. 402; Peroni, C., *op. cit.* no. 10; Davies, M., McCartney, S., "Effects of Gender and Sexuality on Judgements of Victim Blame and Rape Myth Acceptance in a Depicted Male Rape", *Journal of Community and Applied Social Psychology*, Vol. 13, Iss. 5, 2003, pp. 391-398, pp. 394-397; Davies, M., Smith, R., Rogers, P., "Police Perceptions of Rape as a Function of Victim Gender and Sexuality", *The Police Journal*, Vol. 82, 2009, pp. 4-12, pp. 7-9; Davies, M., Hudson, J., "Judgements toward Male and Transgendered Victims in a Depicted Stranger Rape", *Journal of Homosexuality*, Vol. 58, No. 2, 2011, pp. 237-247, pp. 241-244; Davies, M., Pollard, P., Archer, J., "Effects of Perpetrator Gender and Victim Sexuality on Blame Towards Male Victims of Sexual Assault", *The Journal of Social Psychology*, Vol. 146, No. 3, 2006, pp. 275-291, pp. 282-286; Schulz, P., "Transitional Justice for Male Victims of Conflict-Related Sexual and Gender-Based Violence?", *International Journal of Rule of Law, Transitional Justice and Human Rights*, Forthcoming, Transitional Justice Institute Research Paper, No. 16-16, 2016, pp. 39-50, p. 41; Smith, R. E., Pine, C. J., Hawley, M. E., "Social Cognitions about Adult Male Victims of Female Sexual Assault", *The Journal of Sex Research*, Vol. 24, 1988, pp. 101-112, pp. 109-110; Κωστούλας, Μ., "Κατασκευάζοντας Έμφυλες Ταυτότητες: Η Ρητορική του Φύλου στο Λόγο Εργαζομένων σε Μη Κυβερνητικές Οργανώσεις για τη Διακίνηση και Εμπορία Γυναικών", Διδακτορική Διατριβή, Πανεπιστήμιο Ιωαννίνων, Ιωάννινα, 2014, pp. 16-17, 57; Larsen, M. L., Hilden, M., "Male Victims of Sexual Assault; 10 Years' Experience from a Danish Assault Center", *Journal of Forensic and Legal Medicine*, Vol. 43, 2016, pp. 8-11, pp. 9-10

¹⁰⁷ Brownmiller, S., *op. cit.* no. 15, p. 361; Herman, J., *op. cit.* no. 45, pp. 34, 42-43; Krahé, B., *op. cit.* no. 64, pp. 16-17, 22

¹⁰⁸ Cahn, N., *op. cit.* no. 15, pp. 3, 6, 16, 24; Wulandari, C., *op. cit.* no. 18, p. 83; Drumbl, M., "Punishment Goes Global: International Criminal Law, Conflict Zones, and Gender (In)Equality", *Canadian Woman Studies/Les Cahiers de la Femme*, Vol. 19, No. 4, pp. 22-27, p. 23

¹⁰⁹ King, K. P., Clayson, D. E., "The Differential Perceptions of Male and Female Deviants", *Sociological Focus*, Vol. 21, No. 2, 1988, pp. 153-164, pp. 155-161

viewed as calculating, cold-blooded killers. Moreover, they tend to use more heavy weaponry to compensate for their lack of strength, which is not analogous to the attack to which they answer.¹¹⁰

The three main approaches regarding gender and the law have been that of equal/same treatment, which is blind to their differences. The second acknowledges the different needs and is pro special protectionist legislation, which can function in an adverse way excluding women and deteriorating their status. The most recent, the meta-modernist – meta-structural views the law as a formative determinant of identities and hierarchies. It is beyond doubt that the rights of women were enforced in a different timely manner and in asymmetry.¹¹¹ The main interest of feminists was concentrated on the criminal issues surrounding rape, marital rape, prostitution, pornography, FGM, but also abortion, equal pay and sexual harassment.¹¹² Of course, what is a main pillar in any legislative reform is the political willingness,¹¹³ as well as analogous expertise of those in authoritative positions.

Several examples of alternative answers to criminal proceedings exist. The main are Truth and Reconciliation Committees, as was seen in South Africa, Peru, Commission-style Justice, like in Chile, El Salvador, mediation and reparation programmes. While impunity should not be granted to wrong-doers, at least not unconditionally, these mechanisms can work more effectively toward revealing the truth, are more victim-oriented and can potentially be more successful in reconciliation and the move towards democratic transition.¹¹⁴

¹¹⁰ Archer, J., *op. cit.* no. 12, pp. 327, 333, 339; Brody, L., *op. cit.* no. 43, p. 79; Busch, A. L., *op. cit.* no. 31, pp. 49-57, pp. 51, 53-54; George, M. J., *op. cit.* no. 45, p. 145; Carline, A., “Women Who Kill their Abusive Partners: From Sameness to Gender Construction”, *Liverpool Law Review*, Vol. 26, 2005, pp. 13-44, pp. 14-15, 18-20, 22, 27; Hamberger, L. K., Lohr, J. M., Bonge, D., Tolin, D. F., “An Empirical Classification of Motivations for Domestic Violence”, *Violence against Women*, Vol. 3, Iss. 4, 1997, p. 414; Hamberger, L. K., “Female Offenders in Domestic Violence: A Look at Actions in their Context”, *Journal of Aggression, Maltreatment and Trauma*, Vol. 1, Iss. 1, 1997, pp. 117-129, pp. 123-124; Muelleman, R. L., Burgess, P., “Male Victims of Domestic Violence and Their History of Perpetrating Violence”, *Academic Emergency Medicine*, Vol. 5, Iss. 9, 1998, pp. 866-870, pp. 867-868; Noonan, S., “Battered Woman Syndrome: Shifting the Parameters of Criminal Law Defences (or(Re)Inscribing the Familiar?)”, In Bottomley, A., (Ed.), “Feminist Perspectives on the Foundational Subjects of Law”, Cavendish Publishing, London, 1996, pp. 191-222, pp. 201-202; Richardson, D. R., Green, L. R., “Social Sanction and Threat Explanations of Gender Effects on Direct and Indirect Aggression”, *Aggressive Behavior*, Vol. 25, 1999, pp. 425-434

¹¹¹ Κραβαρίτου, Γ., *op. cit.* no. 4, pp. 27-29, 32-33, 46, 133-134, 137; Στρατηγάκη, Μ., “1957-2007: Πενήντα Χρόνια Πολιτικών Ισότητας στην Ε.Ε. Μια Κριτική Ανασκόπηση”, In Στρατηγάκη, Μ., (Επ.), *op. cit.* no. 7, pp. 27-64, p. 28

¹¹² Nussbaum, M. C., *op. cit.* no. 9, p. 287, 343; Κραβαρίτου, Γ., *op. cit.* no. 4, pp. 74, 129; Palmer, S., “Rape in Marriage and the European Convention of Human Rights”, *Feminist Legal Studies*, Vol. V, No. 1, 1997, pp. 91-97, p. 91

¹¹³ Havnor, A., *op. cit.* no. 44, p. 217; Daly, M., “Διακρατικές Συγκρίσεις ως προς την Ένταξη της Διάστασης του Φύλου στις Δημόσιες Πολιτικές: Τα Αποτελέσματα του Προγράμματος EQUAPOL”, In Στρατηγάκη, Μ., (Επ.), *op. cit.* no. 7, pp. 180-214, p. 207

¹¹⁴ Cahn, N., *op. cit.* no. 15, pp. 2, 30-31; Cockburn, C., *op. cit.* no. 2, p. 42; Drumbl, M., *op. cit.* no. 108, p. 25; Herman, J., *op. cit.* no. 45, p. 70; United Nations, *Children and Conflict in a Changing World*, United Nations

PART II: Gender-based-violence-related jurisprudence before international tribunals regarding the member-states of the Council of Europe

Chapter VII: International legal human rights instruments related to gender-based violence

Subsequently to the great atrocities of World War II, the regional schemata of ensuring human rights have been on the rise and in many instances have gone further from the international provisions. The Council of Europe, the European Union, the Organization of American States, and the African Union all have instruments to monitor human rights violations.¹¹⁵ The legal response to crimes after this period has been innovative with national and international proceedings.

It was inevitable that the gender perspective would be included, although with pathologies that derive from the social responses to GBV. In particular, VAW has been brought into the international agenda and the legal framework through the affirmation of women's rights as human rights in the Vienna Declaration and Programme of Action and the decision to appoint a Special Rapporteur on VAW. Importantly, the Declaration states that the invocation of cultural reasons for the justification of violations of any form is incompatible with the spirit of dignity and worth that every individual is entitled to. Furthermore, the Beijing Declaration and Platform of Action – the most influential in terms of national action instrument – specifically address VAW as a human rights' breach.¹¹⁶

Indicative of the peripheral attention paid to gender is the antithesis between the vast recognition and participation in regulatory instruments regarding race, religion and political beliefs, but the same cannot be asserted for the conventions about GBV. In addition, it is far more acceptable to raise reservations to CEDAW than to other Conventions about discrimination. The existing body of conventional instruments has failed in eradicating the behaviour that seeks to control and many

Children's Fund, 2009; Wald, P. M., "Foreword: War Tales and War Trials", *Michigan Law Review*, Vol. 106, No. 6, 2008, Survey of Books Related to the Law, pp. 901-922, pp. 919-921; Wald, P. M., "International Criminal Courts: Some Kudos and Concerns", *Proceedings of the American Philosophical Society*, Vol. 150, Iss. 2, 2006, pp. 241-260, pp. 250-251; Minow, M., "Making History or Making Peace: When Prosecutions Should Give Way to Truth Commissions and Peace Negotiations", *Journal of Human Rights*, Vol. 7, 2008, pp. 174-185, pp. 174-175; Minow, M., "Between Vengeance and Forgiveness: South Africa's Truth and Reconciliation Commission", *Negotiation Journal*, Vol. 14, Iss. 4, 1998, pp. 319-355, pp. 322-325, 332, 334; Nils, C., "Restorative Justice – Answers to Deficits in Modernity?", In Downes, D., Rock, P., Chinkin, C., Gearty, C., (Eds.), *op. cit.* no. 102, pp. 368-378

¹¹⁵ Περράκης, Σ., Μαρούδα, Μ. Ν., "Διεθνής Δικαιοσύνη: Θεσμοί, Διαδικασίες, Εφαρμογές Διεθνούς Δικαίου", Εκδόσεις Σάκκουλα, Αθήνα, Θεσσαλονίκη, 2014, p. 247

¹¹⁶ World Human Rights Council, *Vienna Declaration and Programme of Action*, United Nations General Assembly, A/RES/48/121, 1993, *Declaration*, Preamble, Articles 18, 30, 32; United Nations, Fourth World Conference on Women, *Beijing Declaration and Platform for Action*, 1995; Braithwaite, M., "Οι Επιδράσεις της Ευρωπαϊκής Πολιτικής Ισότητας των Φύλων στα Κράτη-Μέλη: Τα Αποτελέσματα του Προγράμματος EQUAPOL", In Στρατηγάκη, Μ., (Επ.), *op. cit.* no. 7, pp. 159-180, p. 163

members of the UN have refused to sign them or have raised serious reservations, mainly due to customary or religious laws already intact in the national legislation. Moreover, states are not in general responsible for actions between individuals and this impedes the notion that GBV is a violation of human rights. Although the violations occur under the indifference of the state rarely there is a government body to be held accountable for these actions.

7.1: The Universal Declaration of Human Rights

The Declaration adopted by the General Assembly in 1948 reiterates the goals of Article 1 of the UN Charter.¹¹⁷ But the notion that equal treatment¹¹⁸ would eradicate the everyday subordination has long proved to be false. As was laid out in previous sections, the structural obstacles hinder the enjoyment of equal rights, equal opportunities in life.

What its text enshrines is a declaration of the inherent equality of human beings, simultaneously with the wish of achievement of equality. The doctrine behind the choice to endow innate rights by birth was to emphasize that these rights do not derive from social constructions, and thus cannot either be deprived by any of the social constructions.¹¹⁹

The text calls for protection of human rights through legislation and cooperation. But as is logical, violent behaviour towards one another is in breach of the Declaration. For example, right to life, liberty, property, employment and equal pay, freedom of movement, security, freedom from fear, degrading treatment and torture, right to marry (or not) or dissolve a union, are all undermined from GBV. Nowadays, the opinion that States only bear responsibility for actions committed by States' organs or actions under States' order and cannot interfere in the domestic/private spheres of citizens' is long overdue. States do bear responsibility for the wellbeing of the population, no matter the *locus* where abuse is materialized or who the perpetrator is. They have responsibility to protect victims, prosecute perpetrators and work towards the eradication of the root causes of violence.

¹¹⁷ United Nations *Charter*, 1945, Article 1; United Nations, *Universal Declaration on Human Rights*, General Assembly, A/RES/217/A (III), 1948

¹¹⁸ United Nations General Assembly, *ibid.*, Preamble; Λαμπράκη, Ε. Α., "Η Αρχή της Ισότητας των Δύο Φύλων στην Ευρωπαϊκή Ένωση. Από τη Συνθήκη της Ρώμης ως τη Συνθήκη του Άμστερνταμ", Εκδόσεις Λιβάνη, Αθήνα, 1999, pp. 52-53

¹¹⁹ Hughes, G., "The Concept of Dignity in the Universal Declaration of Human Rights", *Journal of Religious Ethics*, Vol. 39, Iss. 1, 2011, pp. 1-24, pp. 1-3, 10, 13

The provision of Article 2 incorporates the state of the territory as a non-factor regarding the respect of inviolable rights. This is of importance, considering that there are cases of territorial disputes found in the countries under examination, like Cyprus, Ukraine, Serbia, Moldova, and Georgia. Occupying states are not exempt from their international obligations even when the circumstances are rather peculiar, as is the case in occupied or under dispute territories.¹²⁰

“Everyone... has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”¹²¹

As is laid out in the aforementioned Article, and given the extensive evidence in the previous section, GBV is undoubtedly in violation of the Declaration. The continuous harassment due to gender throughout the course of life does not allow for the full development of one’s personality, competences and potentials and in accordance does not realize the spectrum of one’s capabilities. This holds back a proportion of the population that lacks access to resources and ultimately has immense cost for the entire body of the society. National policies are to work towards the achievement of the full enjoyment of these rights and inter-state cooperation and exchange is a catalytic component.

7.2: The International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights

The two Covenants are complementary to the Universal Declaration of Human Rights along with the two Optional Protocols to the Covenant of Civil and Political Rights (The first provided international machinery for communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant¹²²), and are also known as the International Bill of Human Rights.

The responsibility of States to ensure equal enjoyment of the rights laid in the Covenants through the creation of favourable conditions whereby each individual can thrive and to implement the

¹²⁰ United Nations General Assembly, *op. cit.* no. 116, Article 2

¹²¹ United Nations General Assembly, *op. cit.* no. 116, Article 22

¹²² United Nations, *Optional Protocol to the International Covenant on Civil and Political Rights*, General Assembly, A/RES/2200A (XXI), 1966, Articles 1,2

according legislation, if not already done, is provided.¹²³ The text reiterates rights laid in the Universal Declaration of Human Rights, like the rights to life, liberty, security, access to judicial organs, e.tc.¹²⁴ Also, the formation of a monitoring body, the Human Rights Committee, was to enter into force and accountability clauses – the submission of yearly reports and the competence of any party to bring any matter regarding another party to the attention of the Committee – enforced the mechanism.¹²⁵

Certain rights may never be suspended or limited, even in emergency situations. These are the rights to life, to freedom from torture, enslavement or servitude, to protection from imprisonment for debt, to freedom from retroactive penal laws, to recognition as a person before the law, and to freedom of thought, conscience and religion.¹²⁶ In a final note, apart from stretching that discrimination based on any grounds infringes the spirit of the Bill of Rights, all of the above texts mention the importance of equal rights of men and women and enjoins States to ensure this equality.¹²⁷

7.3: The Convention on the Elimination of all forms of Discrimination against Women and Optional Protocol

Parties are required by the Convention to eliminate discrimination against women in public and private life, including within the family.¹²⁸ The articles identify specific focal points and establish the means to eliminate discrimination in those areas. There is also the establishment of a monitoring body, the Committee on the Elimination of Discrimination against Women, with a mandate to consider the progress made by parties through the review of their reports which they submit at least every four years or upon the Committee's request. As one of the weaknesses of CEDAW was the lack of an enforcement mechanism, the Optional Protocol – which entered into force in 2000 – came to fill this void, allowing for

¹²³ United Nations, *International Covenant on Civil and Political Rights (CCPR)*, General Assembly, A/RES/2200A (XXI), 1966, Articles 2, 3; United Nations, *International Covenant on Economic, Social and Cultural Rights (CESCR)*, General Assembly, A/RES/2200A (XXI), 1966, Articles 1, 2; Chapdelaine-Feliciati, C., "The Sense, Meaning, and Significance of the Twin International Covenants on Political and Economic Rights", *Semiotica*, Vol. 196, 2013, pp. 325-352, pp. 334-335

¹²⁴ United Nations General Assembly, *CCPR*, Articles 7, 9, 12, 14, 23, 26; United Nations General Assembly, *CESCR*, Articles 3, 6, 7, 10, 13

¹²⁵ United Nations General Assembly, *CCPR*, Articles 28, 40, 41 para. 1; United Nations General Assembly, *CESCR*, Article 16

¹²⁶ United Nations General Assembly, *CCPR*, Article 4, paras. 1, 2

¹²⁷ United Nations General Assembly, *Universal...*, *op. cit.* no. 116, Preamble; United Nations General Assembly, *CCPR*, Article 3; United Nations General Assembly, *CESCR*, Article 3

¹²⁸ "...take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise." United Nations, *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, General Assembly, A/RES/34/180, 1979, Article 2, para. b

the right of individual petition and providing for an inquiry procedure, through which the Committee initiates inquiries for situations of grave or systematic violations of women's rights, giving a quasi-judicial function to the Committee. Another weakness is the insufficient meeting time provided for the function of the Committee, only two weeks annually. Insofar that the extension of this period is not materialized, the General Assembly has repeatedly approved more meeting time.¹²⁹

Without prejudice, CEDAW is the most comprehensive Convention to date on the issue of women's rights. But it is embodied with the doctrine of aligning women's positive rights with men's, and is blind to the underlying causes of the systematic subordination of women,¹³⁰ not to mention the vast impairment of its application by the expression of reservations by the parties.

The concept of due diligence has been used by the Special Rapporteur on VAW to hold states accountable for the prevention, investigation and punishment of violations by non-State actors. The contribution of the mandate has been to expand the concept of the family in order to include violence from other relatives or extended family, as well as previous partners, cohabiting partners and against domestic workers, to develop State obligation beyond prosecution of private actors to encompass protection from violence, legal support and health, safety, and shelter requirements, and to develop the obligation to prevent VAW by addressing its causes. By linking the structure and policy of the State with the expression of the phenomenon of GBV the dichotomy between public and private spheres is uprooted.¹³¹ It imposes upon the State the responsibility for illegal acts that are not directly committed by the State or its agents, but by private actors on account of State failure to take sufficient steps to prevent the illegal acts. Likewise, once an illegal act has occurred, the State's inaction and failure to investigate, prosecute or punish the act perpetrated by a private actor amounts to neglect of the State obligation to be duly diligent.¹³² In Committee's General Recommendation No. 19 there is the provision that States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence and for providing health services and compensation.¹³³ Moreover, the Recommendation enlists some of the rights that are hindered due to

¹²⁹ United Nations, *CEDAW*, Articles 2, 17, 18, 20, 24; United Nations, *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, General Assembly, A/RES/54/4, 1999, Articles 1, 2, 8, 9; Committee on the Elimination of Violence against Women, General Recommendation No. 12, 1989

¹³⁰ United Nations, *ibid.*, Articles 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16

¹³¹ United Nations Special Rapporteur on Violence against Women, *15 Years of the United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences (1994-2009) – A Critical Review*, pp. 9, 10

¹³² United Nations Special Rapporteur on Violence against Women, *ibid.* p. 25

¹³³ Committee on the Elimination of Violence against Women, General Recommendation No. 19, 1992, No. 24, 1999

GBV – the first mention of VAW in the context of the CEDAW – thus the right to life, the right not to be subjected to torture or cruel, inhuman or degrading treatment and punishment, the right to equal protection according to humanitarian norms in time of international or internal armed conflict, the right to liberty and security, the right to equal protection under the law, the right to equality in the family, the right to the highest attainable standard of physical and mental health.¹³⁴

The Committee has made several (10) communications regarding state-members of the Council of Europe. As Communication No. 2/2003 outlines, States are responsible for providing effective safety from abusive former partners. We note the importance of private actors' actions, and the extent given to the definition of GBV to include violence after the dissolution of marriage. Another case brought against Hungary by a member of the Roma community was about the coerced sterilization she was subjected to when she attended the hospital concurrent to her miscarriage. The Communications No. 5/2005 and 6/2005 versus Austria both emphasize the failure of the State to protect victims of femicide, after years long domestic violence. After granting protection orders, the public authorities did not proceed to allow their arrest upon police requests. The Public Prosecutor should have been aware of the risk entailed after such violent outbursts – “*high threshold of violence*” – and bear in mind that the victims' right to life and physical and mental integrity superseded the perpetrators' rights of free movement and to a fair trial. Although the offenders were prosecuted to the full extent of the law, the Committee still found that there were omissions on behalf of State-parties.¹³⁵

7.4: The Beijing Declaration and Platform for Action

The Platform for Action adopted at Beijing identifies twelve areas of critical concern for women providing concrete actions to be taken by different actors. The explicit mention to specific forms of violence made their recognition as such undisputable, i.e. marital rape.¹³⁶ States are to exercise due diligence in preventing, investigating and punishing acts of VAW, whether committed by the state or not. However the limitation that this must be in accordance with national legislation perhaps provides a

¹³⁴ Committee on the Elimination of Violence against Women, *ibid*.

¹³⁵ Committee on the Elimination of Violence against Women, Communication No. 2/2003, *Ms. A. T. v. Hungary*, 2005; Communication No. 4/2004, *Ms. A. S. v. Hungary*, 2004; Communication No. 5/2005, *Şahide Goekce v. Austria*, 2004; Communication No. 6/2005, *Fatma Yildirim v. Austria*, 2004

¹³⁶ United Nations, *op. cit.* no. 116, *Platform for Action*, Article 44,113

loophole.¹³⁷ The Platform contributed in the expansion of the definition of the Declaration, specifying that VAW includes violations of the rights of women in situations of armed conflict; including systematic rape, sexual slavery and forced pregnancy, forced sterilization, forced abortion, coerced or forced use of contraceptives, prenatal sex selection and female infanticide.¹³⁸ Further, it can be asserted that the Declaration intended to remind the approach towards gender-mainstreaming, as it calls for ensuring the gender perspective in all of the policies and programmes of the parties.¹³⁹

The outcome document of the special session on Beijing +5 went a step further in calling for the criminalization of VAW, punishable by law. Article 69 para. c states that governments shall:

*“treat all forms of violence against women and girls of all ages as a criminal offence punishable by law, including violence based on all forms of discrimination.”*¹⁴⁰

7.5: The European Convention on Human Rights

GBV is a violation of the right to education, property, life, freedom from torture or inhuman or degrading treatment, forced labour or servitude, right to liberty and security, respect for private and family life, and discriminatory treatment is prohibited on any grounds, as laid in the Convention. The persons testifying in court have the right to privacy and so to request closed hearings which is of great importance in cases with sensitive components. If violations are founded, then effective remedy is in order. The establishment of the European Court of Human Rights has created a safety clause for citizens whose rights have been violated and a process of interaction between the CoE and the member-states.¹⁴¹

The CoE is responding with great mobilisation to the constant changes in the international context. The dynamic updates of the existing instruments, the development of case-law, as well as the

¹³⁷ United Nations, *op. cit.* no. 116, *Platform for Action*, Article 113, para. c, Article 124, para. b, Article 224; Chinkin, C., “Report on the Fourth United Nations Conference on Women, Beijing, 1995”, *International Journal of Discrimination and the Law*, Vol. 2, 1996, pp. 119-127, p. 124

¹³⁸ United Nations, *op. cit.* no. 116, *Declaration*, Article 11, *Platform for Action*, Articles 25, 38, 39, 114, 115, 132, 135, 136

¹³⁹ United Nations, *op. cit.* no. 116, *Declaration*, Article 38, *Platform for Action*, Article 123

¹⁴⁰ United Nations General Assembly, *Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action*, A/RES/S-23/3, 2000, Article 69, para. c

¹⁴¹ European Court of Human Rights, Council of Europe, *European Convention on Human Rights as Amended by Protocols Nos. 11, 14, Supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13*, 4.XI.1950, Articles 2, 3, 4, 5, 6, 8, 13, 14, 19; European Court of Human Rights, Council of Europe, *Protocol to the Convention on Human Rights*, 20.III.1952, Articles 1, 2

drafting of specialized Conventions is keeping the regional organization in the frontline of human rights protection.¹⁴²

7.6: Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence

The alternatively known as the Istanbul Convention, in Article 4 para. 1 explicitly refers to VAW as a human rights violation and protects the right for everyone, particularly women, to live free from violence in both the public and the private sphere. States are required to investigate, punish and exercise due diligence in prevention of violence, and if so occurs to provide reparations. It introduces a set of groundbreaking criminal offences such as harassment, stalking, FGM, forced marriage, forced abortion and forced sterilisation. These offences are applicable irrespective of the nature of the relationship between the victim and the perpetrator. Articles 60 and 61 pay attention to refugee victims of violence and tackle the gender blindness of the UN Convention relating to the Status of Refugees. GBV may now amount to persecution and serious harm. What is astonishingly a big improvement is the gender neutral language used throughout the text, so the provisions are applicable to anyone.¹⁴³

7.7: The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Article 1 of the Convention is stating the definition of torture. When reading the definition of torture as an act that intentionally inflicts pain or suffering – either mental or physical – upon a person for the purpose of intimidation or coercion or for any reason based on discriminatory grounds, i.e. gender could be included; then GBV could be a part of this behaviour. But there are limitations to the definition provided. The act must be carried out by, instigated by, with the consent or acquiescence of a public official or anyone acting in an official capacity.¹⁴⁴

¹⁴² Clancy, D., “Answering the Challenge of the Universal Declaration of Human Rights: The Council of Europe and Human Rights”, *The International Journal of Human Rights*, Vol. 3, No. 3, 1999, pp. 120-131, p. 121

¹⁴³ Stalking is defined as: “repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety”.

Council of Europe, *Convention on Preventing and Combating Violence against Women and Domestic Violence*, 11.V.2011, 2011, Articles 1, 2, 5, 12, 30, 32, 34, 37, 38, 39, 40, 43, 57, 60, 61, Article 4, paras. 1, 3, Article 78, para. 2

¹⁴⁴ United Nations, *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, General Assembly, A/RES/39/46, 1984, Article 1; Charlesworth, H., *op. cit.* no. 4, pp.628-629

Henceforth, acts that occur in the private spheres can not fall into this definition, if we do not assert that the acquiescence of the State derives from the lack of positive actions to prevent and punish perpetration of GBV, while also providing remedy for victims. As was presented previously, the context of impunity corroborates the structural components of the phenomenon and – indeed – in a wider view of the consent or acquiescence of the State we can argue that the State bear responsibility for the action committed between individuals that are not State actors.

Steps towards this development started in 1992, when the Special Rapporteur on Torture defined rape as a form of torture, bringing it explicitly within the scope of the Convention.¹⁴⁵ Later, the ICTR and ICTY indicted individuals for rape as a form of torture. Complementary, the Declaration on the Elimination of Violence against Women notes that the rights of women are also incorporated in the Convention.¹⁴⁶ Later on, the second report of the Special Rapporteur submitted to the Human Rights Council has authoritatively categorized domestic violence as a form of torture. As opposed to the exact wording of the Convention that only actions committed with state involvement can amount to international responsibility, the Rapporteur suggests that systematic actions or omissions perpetuate the subordination and powerlessness that create favourable circumstances for victimization.¹⁴⁷

States are required to take measures towards the prevention and punishment of such acts and no extenuating circumstances are limiting the application of the Convention by the introduction of a non-derogation clause.¹⁴⁸ So, we can argue that periods of conflict or occupation do not diminish the extent in which the provisions should be enforced. Moreover, State officials, civil, military and medical personnel or anyone that is involved in the handling of detained, arrested or imprisoned persons is required to undergo training regarding the provisions of the Convention, and in case of allegations of torture impartial investigations should be initiated. Appropriate complaint mechanisms should be materialized, adequate protection to complainants, and compensation should be provided.¹⁴⁹

As with any other legal document, controversies arise regarding the obligations of parties. States cannot guarantee in absolute that torture will not occur in the territory where they exercise jurisdiction. But as was noted above, several factors can have a mitigating effect. Thus, when are States

¹⁴⁵ Rodley, N., *Report of the Special Rapporteur Submitted Pursuant to Commission on Human Rights Resolution 1992/32*, United Nations Economic and Social Council, E/CN.4/1995/34, 1995, paras. 16-18

¹⁴⁶ United Nations General Assembly, *op. cit.* no. 11, Preamble

¹⁴⁷ Manfred, N., *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights Including the Right to Development*, United Nations General Assembly, A/HRC/7/3, 2008, paras. 29, 44, 46, 68

¹⁴⁸ United Nations General Assembly, *ibid.*, Article 2, paras. 1, 2, Article 4

¹⁴⁹ United Nations General Assembly, *op. cit.* no. 144, Article 10, para. 1, Articles 12, 13, 14; Mouthaan, S., *op. cit.* no. 46, p. 3

expected to take specific measures, to what extent and how do we measure their results?¹⁵⁰ In order to work through the disputes and ensure the application of the provisions the Convention forms a monitoring mechanism, the Committee (CAT), and parties are obliged to submit reports on their progress every four years or subsequent to the request of the body.¹⁵¹

Article 3 requires that States do not extradite persons that upon their return there is danger of victimization.¹⁵² This provision has led to some cases of asylum grant to women seeking refuge from countries where GBV is vastly habitual, or there was a significant rise in femicides, or countries where FGM is a widespread phenomenon, thus creating a precedent in recognizing GBV as ground for asylum.¹⁵³ A recent case in Sweden for persecution of an El Salvadoran woman after a miscarriage has also created a precedent related to abortion-related incarceration.¹⁵⁴

¹⁵⁰ Boulesbaa, A., "The Nature of Obligations Incurred by States under Article 2 of the UN Convention against Torture", *Human Rights Quarterly*, Vol. 12, No. 1, 1990, pp. 53-93, pp. 56-57, 61

¹⁵¹ United Nations General Assembly, *op. cit.* no. 144, Article 19

¹⁵² United Nations General Assembly, *op. cit.* no. 144, Article 3

¹⁵³ Some countries, such as Australia, Canada, the United Kingdom, France and the United States, recognize sexual abuse, forced marriage, forced abortion and FGM as amounting to persecutions in order to accept gender-based asylum claims on grounds of Particular Social Group. United Nations Special Rapporteur on Violence against Women, *op. cit.* 131, note 212; United Nations High Commissioner for Refugees, Council of Europe, *Refugee Women and the Istanbul Convention: Preventing and Combating Sexual and Gender-Based Violence*, Strasbourg, 2013

Social group is defined: "by common characteristics that members of the group either cannot change, or should not be required to change because such characteristics are fundamental to their individual identities". One of the significant aspects of the construction of persecution was the concept that the harm or suffering had to occur as the result of a belief or characteristic an oppressor sought to overcome or punish in an individual. United States Department of Justice, Executive Office for Immigration Review Board of Immigration Appeals, *Matter of Acosta*, 19 I&N Dec. 211 (BIA 1985)

FGM was recognized as persecution based on the "social group" of the applicant. United States Department of Justice, Executive Office for Immigration Review Board of Immigration Appeals, *Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996)

FGM was recognized as continuous persecution. United States Court of Appeals of the Ninth Circuit, *Mohamed v. Gonzales*, Nos. 03-70803, 03-72265, 2005

Committee on the Elimination of Violence against Women, *Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico*, CEDAW/C/2005/OP.8/MEXICO, 2005

¹⁵⁴ Bougher, K., "Salvadoran Woman Becomes First Person to Be Granted Asylum Due to Regressive Abortion Laws", *Rewire*, 28.03.2017, Available at: <https://rewire.news/article/2017/03/28/salvadoran-woman-becomes-first-person-granted-asylum-due-regressive-abortion-laws/>

7.8: The Convention of the Rights of the Child

The Convention intersects with GBV in the phenomenon of FGM. The adoption of Recommendation 14¹⁵⁵ on FGM by the Committee on the Elimination of VAW brought attention to this harmful practice – which was previously not in the scope of international law, since it was a matter between individuals – and placed it under the auspices of the CEDAW. FGM is performed on minors, thus underage persons that are not in position to make informed decisions and provide consent. Due to its permanent adverse effect, the implications and hazardous impact on the bodily integrity and the conditions under which it is performed, it is a great concern and the UN is working toward its eradication by 2030.

FGM is performed in Europe too, by immigrants, or in some cases on European citizens when abroad. FGM arose as a health issue in the Nordic countries during the 1980s when there was an influx of Somalis.¹⁵⁶ Today, it is performed mainly in France, although reliable statistics are hard to obtain.

The Convention clearly states that no unnecessary bodily intrusion is inflicted upon a child whereas under the care of a parent or a guardian and States are obliged to ensure this.¹⁵⁷ Article 16 provides that no arbitrary interference to the privacy of the child is tolerable, so the practice of mutilation that is ordered by religious and cultural beliefs of parents and the community is in breach of his/her rights.¹⁵⁸ Moving even further, States shall move to the abolition of traditional practices that harm the health of the child.¹⁵⁹ *Inter alia*, the same can be asserted for the circumcision of young males under the burden of longstanding religious orders. Lastly, the argument that the safer alternative of “medicalization” – the performance of FGM by health personnel – is not a breach of the rights of the child is ill-founded. The consequences and the context remain problematic from a human rights perspective. Nor is the right to enjoy cultural and religious beliefs higher to the right to life, health and safety.

¹⁵⁵ Committee on the Elimination of Violence against Women, General Recommendation No. 14, 1990

¹⁵⁶ European Institute for Gender Equality, *Estimation of Girls at Risk of Female Genital Mutilation in the European Union*, Vilnius, 2015, pp. 4, 13; Essen, B., Wilken-Jensen, C., “How to Deal with Female Circumcision as a Health Issue in the Nordic Countries”, *Acta Obstreticia et Gynecologica Scandinavica*, Vol. 82, Iss. 8, 2003, pp. 683-686, p. 683

¹⁵⁷ United Nations General Assembly, *op. cit.* no. 47, Article 19, para. 1

¹⁵⁸ United Nations General Assembly, *op. cit.* no. 47, Article 16

¹⁵⁹ United Nations General Assembly, *op. cit.* no. 47, Article 24, para. 3

The Special Rapporteur on Torture includes the practice under the category of torture making it illegal regardless of the circumstances under which it is performed.¹⁶⁰ In a wide spectrum, it is States' responsibility to ensure a safe environment for the upbringing of children, without abuse, neglect, violence of any sort, and the involvement of both parents in the development of the child,¹⁶¹ and if such cases arise, to promote recovery and reintegration.¹⁶²

Despite the efforts to abolish FGM, it is a multi-level problem and appropriate policies are called for. It can obtain financial gains for the practitioner, it is a long tradition among indigenous communities and migrants, and ultimately a form of control over female bodies and sexuality.¹⁶³ The answer to the problem needs to tackle the economic motive of those who support and perform it, uproot the prejudices that promote permanent alterations to the female body and engage the entire communities in order to ensure viable results.

In accordance, surgeries performed on intersex individuals can allegedly be violations of their basic human rights. Their age is forbidding the provision of informed consent by the patient, and parents are many times coerced into agreeing. These procedures are in most of the cases non-emergency, unnecessary, irreversible intrusions on healthy tissues of the body of a newborn in order to align his/hers body to the socially acceptable form of bodily expression.

Regarding sexual offences, according to the Convention parties undertake to protect children from all forms of sexual exploitation and abuse.¹⁶⁴ The Stockholm Declaration and Agenda for Action against Commercial Sexual Exploitation of Children make reference to harmful traditional practices, armed conflict and trafficking and call for the criminalisation of all forms of sexual exploitation and prosecution of all persons involved in the process, and on the other hand the exempt of the child, his/hers recovery and reintegration.¹⁶⁵

¹⁶⁰ Manfred, N., *op. cit.* no. 147

¹⁶¹ United Nations General Assembly, *op. cit.* no. 47, Articles 18, 19

¹⁶² United Nations General Assembly, *op. cit.* no. 47, Article 39

¹⁶³ United Nations Population Fund, *Implementation of the International and Regional Human Rights Framework for the Elimination of Female Genital Mutilation*, p. 19

¹⁶⁴ United Nations General Assembly, *op. cit.* no. 47, Article 34

¹⁶⁵ First World Congress against Commercial Sexual Exploitation of Children, *The Stockholm Declaration and Agenda for Action*, Sweden, 1996, *Declaration*, Articles 6, 12, *Agenda*, Article 3, para. g, Article 4, paras. b, c, d, h, Articles 5, 6

7.9: The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

Trafficking of women and children is another aspect of the unequal power relations that create the social order and hence is a form of GBV.¹⁶⁶ Human trafficking is a high profit, low risk activity. The crime of human trafficking is a criminal offence in many States although it is often the case that investigations do not result to convictions. The Protocol – in short – obliges States to criminalise trafficking, investigate and prosecute traffickers and undertake border control measures. It provides minimum standards upon which States can build their own response to the specific, national context. A bi-directional approach is required to adequately mitigate the phenomenon. Measures that punish the offenders and victim protection and support are equally necessary. The Protocol supplements the UN Convention against Transnational Organized Crime, and also places emphasis on due diligence.

The Special Rapporteur on Torture in his 2008 report expanded the definition of torture to incorporate trafficking as a form of torture in the private sphere emphasizing the devastating impact inflicted upon the victim.¹⁶⁷ The Convention of the Rights of the Child is also dealing with trafficking. Article 1 para. 1 mentions that parties shall take measures to combat the illicit transfer and non-return of children abroad, whereas Article 35 states that parties:

“shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”¹⁶⁸

The act of trafficking consists of three elements. The act of recruiting, transporting, transferring, harbouring or receiving a person, the means of coercion, deception or abuse of vulnerability, and the purpose of exploitation.¹⁶⁹ Laws and regulations which effectively criminalize all elements of trafficking are in accordance with Article 5 of the Protocol.¹⁷⁰ Article 3 para. b is a very important aspect. Consent

¹⁶⁶ Watson, J., Silkstone, C., “Human Trafficking as a Form of Gender-Based Violence: Protecting the Victim”, *Agenda: Empowering Women for Gender Equity*, No. 70, Gender-Based Violence Trilogy, Volume 1,2: Trafficking, 2006, pp. 110-118, p. 112

¹⁶⁷ “During the exploitation phase victims are often forced to work up to 18-24 hours per day and subjected to severe forms of physical and mental violence, including beatings, sexual abuse, humiliations and threats that may amount to torture or at least cruel, inhuman and degrading treatment.” Manfred, N., *op. cit.* no. 137

¹⁶⁸ United Nations General Assembly, *op. cit.* no. 47, Article 1, para. 1, Article 35

¹⁶⁹ United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons 2016*, 2016, pp. 6-7, 23-24, 26, 28, 33, 35-36

¹⁷⁰ United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (TIP)*, General Assembly, A/RES/55/25, 2000, Article 5

of victim is rendered meaningless as long as the elements of trafficking are fulfilled. This nullifies the attempt of traffickers to excuse their actions by supporting that consent was part of the transactions.¹⁷¹ Another pillar, the non-punishment principle, which exonerates the victims from illegal acts conducted related to their trafficking. This is not explicitly in the TIP, but derives from other guidelines for the treatment of trafficked persons as victims. Moreover, the principle of non-refoulement in Article 8 para. 2 suggests that return to the country of origin shall be done voluntarily and accordingly to the prohibition of torture and inhuman and degrading treatment. Among others, assistance and protection, such as legal aid, housing, counselling, reintegration and the possibility to acquire compensation should be available.¹⁷²

Another practice, early marriages is in breach of the rights of the girl-child, upon whose occurrence the normal course of a child's life is abruptly interrupted. Educational attainment is sidelined affecting the life of tomorrow's woman in the long-term. The initiation of sexual relations in younger ages, pregnancies and labour have elevated risk for younger women, and the mortality and morbidity rates are higher in earlier stages of life, putting at risk the well-being of the person.¹⁷³ From a legal point, since the girl is under aged there is no free and full consent to the marriage, the intercourse resulting after the entry into marriage is marital rape, and the subsequent pregnancies are forced resulting in utter violations of the rights of the individual.

The Convention on the Rights of the Child contains several articles that are pertinent to the marriage of children, as well as CEDAW, and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography offers the definitions of sale of children, child prostitution and child pornography.¹⁷⁴ The TIP defines trafficking in children as including only the act and exploitative purpose and the means do not need to be addressed.¹⁷⁵

¹⁷¹ Παπαρρήγα-Κωσταβάρα, Κ., *op. cit.* no. 7, pp. 138-139

¹⁷² United Nations General Assembly, *TIP*, Article 3, para. b, Article 8, para. 2, Article 6; Council of Europe, *Convention on Action against Trafficking in Human Beings*, 16.V.2005, 2005, Article 26

¹⁷³ United Nations, *op. cit.* no. 116, *Platform for Action*, Articles 71, 263, 268; United Nations, *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*, General Assembly, A/RES/1763A (XVII), 1962; European Union Agency for Fundamental Rights, *Discrimination against and Living Conditions of Roma Women in 11 EU Member States*, Belgium, 2014, p. 43

¹⁷⁴ United Nations General Assembly, *op. cit.* no. 47, Article 3; United Nations, *op. cit.* no. 128, Article 16; United Nations, *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, General Assembly, A/RES/54/263, 2000

¹⁷⁵ United Nations Global Initiative to Fight Human Trafficking, *023 Worksop: The Effectiveness of Legal Frameworks and Anti-Trafficking Legislation*, The Vienna Forum to Fight Human Trafficking, 13-15.02.2008, Austria Center, Vienna, Background Paper, p. 8

A general review and some specifics about the region under consideration will be outlined. Today, trafficking can be observed inside a country's territory and the purpose is beyond sexual exploitation. The other characteristics have also changed. While the majority of detected victims are still women – for the purposes for sexual exploitation, forced marriages, domestic servitude and forced labour, the number of men is on the rise – mostly for forced labour. Traffickers on the other part remain mostly men, but increasingly women are undertaking this task. It is far easier for a woman to recruit other women and it has been observed that former victims move to being recruiters.¹⁷⁶ Regionally, the CoE Convention on Action against Trafficking in Human Beings represents a good example that supersedes the Protocol in its protection clauses. It presents minimum standard measures and the protection and support measures offered are not conditional on a victim's willingness to cooperate with the authorities. The measures include a reflection period for all trafficked victims (30 days minimum), residence permits where necessary, secure accommodation, psychological and material assistance, access to medical treatment, counselling and information in relation to legal rights, judicial proceedings and services that are available to the victim, compensation and access to education (for children).¹⁷⁷

7.10: The Charter of the International Criminal Court

The ICC is the first international permanent tribunal in charge of prosecuting genocide, crimes against humanity and war crimes. Ending impunity for sexual and GBV as international crimes is a challenging process, because of its difficulty under periods of turmoil, during which insecurity and conflict are prevailing and recourse to justice is not an easy task. Historically, this type of violence had been viewed as an inevitable by-product of conflict.

Fortunately, today the body of international law has explicitly outlawed these practices in contrast with the charters of the International Military Tribunals of Nuremberg and Tokyo. They can fall under either of the following categories depending on the context and their magnitude, or under multiple categories. These are crimes against humanity if committed systematically or in a big scale form

¹⁷⁶ United Nations Office on Drugs and Crime, *op. cit.* no. 169, p. 14; Huda, S., *Report of the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children*, United Nations General Assembly, A/HCR/4/23, 2007

¹⁷⁷ Council of Europe, *op. cit.* no. 172, Articles 12, 13, 14, 15

against the civilian population, war crimes if committed during armed conflicts, or genocide if there is the intent to destroy in whole or in part a specific group.¹⁷⁸

The framework of the ICC addresses an extensive number of sexual and gender-based crimes – sexual slavery, forced pregnancy, enforced prostitution, enforced sterilisation and other forms of sexual violence, gender as a basis for persecution, trafficking as included in the definition of enslavement – and includes specific provisions to protect the testimony of survivors, and appropriately provide counselling or reparations. In the procedural matters, the rules and evidence do not require corroboration, acknowledging the fact that a victim is unable to consent while in a coercive environment and states that victims' prior or subsequent sexual conduct are deemed irrelevant. Neither silence or lack of resistance amount to consent.¹⁷⁹

The recent progressive developments in the investigation and data collection regarding GBV have created the impression that impunity is no longer an available luxury for grave atrocities. Most recently, the ICC has opened *proprio motu* an investigation in Burundi for grave crimes, including rapes, mutilation and sexual violence against men in detention. This regardless to the fact that Burundi expressed the intention to withdraw from the Statute. These steps are sending a clear message that crimes cannot remain unpunished.¹⁸⁰

¹⁷⁸ United Nations Entity for Gender Equality and the Empowerment of Women Official Website, *Justice Now: Ending Impunity for Sexual and Gender-Based Violence as International Crimes*, Available at: <http://interactive.unwomen.org/multimedia/infostory/justicenow/en/index.html>; United Nations, *Review of the Sexual Violence Elements of the Judgements of the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court for Sierra Leone in the Light of Security Council Resolution 1820*, United Nations Department of Peacekeeping Operations, 2010; Byrne, K. O., "Beyond Consent: Conceptualizing Sexual Assault in International Criminal Law", *International Criminal Law Review*, Vol. 11, 2011, pp. 495-514, p. 496

¹⁷⁹ *Rome Statute of the International Criminal Court*, 1998, Articles 6, 7, 8, Article 42, para. 9, Article 54, para. 1 (b), para. 3 (e), (f), Article 57, para. 3 (c), (e), Article 64, para. 6 (e), 7, Articles 68, 75, 79; International Criminal Court, *Rules of Procedure and Evidence*, Rules 16, 17, 18, 19, Rule 63, para. 4, Rules 67, 70, 71, 72, 86, 87, 88, 96, 97, 98; *Elements of Crime*, Article 7, para. 1 (h) (3), Article 8, para. 2 (b) v(xii) 1-6, Article 8, para. 2 (e) (vi) 1-6; Duncan, S., "The Mirror Tells its Tale: Constructions of Gender in Criminal Law", In Bottomley, A., (Ed.), *op. cit.* no. 110, pp. 173-189, pp. 183-185

¹⁸⁰ International Criminal Court, *The Prosecutor v. Bosco Ntaganda*, ICC-01/04-02/06; *The Prosecutor v. Sylvestre Mudacumura*, ICC-01/04-01/12; *The Prosecutor v. Callixte Mbarushimana*, ICC-01/04-01/10; *The Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06; *The Prosecutor v. Germain Katanga*, ICC-01/04-01/07, (The Democratic Republic of Congo); *The Prosecutor v. Dominic Ongwen*, ICC-02/04-01/15 (Uganda); *The Prosecutor v. Uhuru Muigai Kenyatta*, ICC-01/09-02/11, (The Republic of Kenya); *The Prosecutor v. Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb")*, ICC-02/05-01/07; *The Prosecutor v. Abdel Raheem Muhammad Hussein*, ICC-02/05-01/12; *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, ICC-02/05-01/09 (Darfur, Sudan); *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, ICC-02/11-01/15 (Côte d'Ivoire); *The Prosecutor v. Jean-Pierre Bemba Gombo*, ICC-01/05-01/08 (The Central African Republic); *Statement of the Prosecutor of the*

7.11: International humanitarian law

The attempt to codify rules of warfare was well into the nineteenth century, and at first appeared primarily in army manuals. In the twentieth century, multilateral conventions dealt with the conduct of belligerent nations. Shortly; only military objectives should be attacked, and then only by targeting and not indiscriminately. Also, a proportionality principle that collateral damage must not be disproportionate to the value of the military objective should be weighed.¹⁸¹

The most important conventional texts on armed conflicts are the four Geneva Conventions of 1949 and the two Additional Protocols of 1977. The Conventions are equally applicable in cases of occupation and prohibit the threat of or actual insults, enlisting, execution without previous judgement with all the judicial guarantees, inhuman, humiliating or degrading treatment, and torture among others. They provide special protection for children and expecting mothers. The provision that women's honour ought to be protected, especially against rape and other indecent acts is pointing to the fact that the drafters were not recognizing the act as a violation committed against a person itself, but as an act that it would impede and compromise the honour of a woman, and thus value and worth. This is a clear indication of the stereotypically engendered nature of international law instruments.¹⁸²

More recently, the concern about the targeting of hapless civilians in periods of conflict and insecurity has led the General Assembly to draft a declaration dedicated to women and children and their protection. But, what can be adhered regarding the text of the declaration is the insistence on the

International Criminal Court, Fatou Bensouda, on opening a Preliminary Examination into the situation in Burundi, 25.04.2016; The Prosecutor of the International Criminal Court, Fatou Bensouda, re-opens the Preliminary Examination of the situation in Iraq, 13.05.2014; The Prosecutor of the International Criminal Court, Fatou Bensouda, opens a Preliminary Examination in Ukraine, 25.04.2014; The Office of the Prosecutor, Report on Preliminary Examination Activities 2016, 2016, paras. 174, 183, 292-296

¹⁸¹ US Government's Lieber Code of 1863 prohibited "all rape... protection... especially women..." Instructions for the Government of Armies of the United States in the Field (Lieber Code), 1863, Articles 37, 44
Brownmiller, S., *op. cit.* no. 15, p. 119; Γάγγας, Δ. Σ., "Εισαγωγή στο Διεθνές Δίκαιο των Ενόπλων Συγκρούσεων", Εκδόσεις Σιδέρης, Αθήνα, 2009 [2000], pp. 61-64, 84-104

¹⁸² World Human Rights Council, *op. cit.* no. 116, *Declaration*, Article 38; *Geneva Convention relative to the Protection of Prisoners of War*, 1949, Articles 2, 3, 13, 14, 17, 25; *Geneva Convention relative to the Protection of Civilian Persons in Time of War*, 1949, Articles 2, 3, 5, 6, 15, 16, 17, 18, 27, 31, 32, 50, 51, 89, 91, 97, 100, 119, 127, Article 38, para. 5; *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 1977, Articles 9, 10, 11, 41; *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 1977, Articles 2, 4, 5, 6, 7, 13; Sellers, P. V., "The Cultural Value of Sexual Violence", *Proceedings of the Annual Meeting, American Society of International Law*, Vol. 93, 1999, pp. 312-324, pp. 314-315

additional vulnerability of women,¹⁸³ the grouping of women with children and the fact that women require protection because of their special mission of upbringing the next generation.¹⁸⁴ Security Council's work stretches to issues like prosecution of perpetrators of sexual violence,¹⁸⁵ the protection of women and girls in armed conflicts by peacekeepers,¹⁸⁶ the recognition of rape as a weapon of war.¹⁸⁷

The existing rules are not insufficient *per se* – as they provide adequate guidance in regards to the conduct of warring parties and the instrumental capacity for prosecutions – rather their implementation is.¹⁸⁸ Nonetheless, the unnecessary infliction of bodily or mental harm – either on combatants or civilians – is not in line with the rules of necessity and proportionality that needs to be considered before military operations.

¹⁸³ "...especially on women and children, who are the most vulnerable members of the population..." United Nations, *Declaration on the Protection of Women and Children in Emergency and Armed Conflict*, General Assembly, A/RES/3318 (XXIX), 1974, Article 1

"...defenceless women..." United Nations General Assembly, *ibid.*, Article 2

¹⁸⁴ "Conscious of its responsibility for the destiny of the rising generation and for the destiny of mothers, who play an important role in society, in the family and particularly in the upbringing of children..." United Nations General Assembly, *op. cit.* no. 183, Preamble

Peterson, V. S., *op. cit.* no. 75, p. 115, 117

¹⁸⁵ United Nations Security Council, S/RES/2106, 2013; Kolbe, A. R., "‘It’s Not a Gift When It Comes with Price’: A Qualitative Study of Transactional Sex between UN Peacekeepers and Haitian Citizens", *International Journal of Security & Development, Stability*, Vol. 4, No. 1, Art. 44, 2005

¹⁸⁶ United Nations Security Council, S/RES/1888, 2009

¹⁸⁷ United Nations Security Council, S/RES/1820, 2008

¹⁸⁸ Chabra, S., "War, Women and Humanitarian Law", *Venkateshwara International Journal of Multidisciplinary Research*, 2014; Stephens, B., "Humanitarian Law and Gender Violence: An End to Centuries of Neglect?", *Hofstra Law and Policy Symposium*, 1999, Vol. 3, pp. 106-118

Chapter VIII: Selected case law

By gradually bringing to trial enemy servicemen, States made individuals accountable and State responsibility was either accompanied or replaced by individual criminal liability. The acts of international crimes have come to be so extended by gradual accretion through a complex process. At the beginning of each broadening problems arose as to the constituent elements.¹⁸⁹

This chapter will depict some of the precedent-setting decisions in international tribunals regarding the members of the CoE, so as to exhibit the evolution of GBV among the international community, as well as the existing and persisting pathologies wherein it. It is a welcomed fact that the case law is multiplying in international, regional and national tribunals, creating deterrence by the fear of the sanctions imposed upon individuals and States. But as was mentioned earlier, this is not sufficient to eliminate the problem.

Convictions like *Hissèin Habré's*, for crimes including rape and sexual slavery, *Jean-Pierre Bemba's* for crimes against humanity and war crimes, *Sepur Zarco* trial for conflict-related sexual violence, sexual slavery, crimes against humanity against indigenous Q'eqchi' women and a fairly recent one, for child rapes as crimes against humanity in the Democratic Republic of Congo, are path-breaking judgements. Special mention is ought to the *Akayesu* decision – whom the Court convicted for encouraging and facilitating mass rape of women – for recognizing rape as an instrument of genocide through stating the mental impact of rape on the person and the future procreation of a community. The ICTR recognized rape as a form of genocide in the same way as any other act committed with the specific intent to destroy a particular group, recognizing the devastating impact of rape, and ICTY followed the same rationale in its decisions.¹⁹⁰

¹⁸⁹ Cassese, A., Acquaviva, G., Fan, M., Whiting, A., "International Criminal Law: Cases and Commentary", Oxford University Press, Oxford, 2013 [2011], pp. 113-115

¹⁹⁰ "destruction of the spirit, of the will to live, and of life itself." International Criminal Tribunal for Rwanda, *The Prosecutor v. Jean-Paul Akayesu*, ICTR-96-4-T, 02.09.1998, para. 732
Extraordinary African Chambers (EAC), *General Prosecutor v. Hissèin Habré*, 27.04.2017; International Criminal Court, *The Prosecutor v. Jean-Pierre Bemba Gombo*, ICC-01/05-01/08, 22.03.2016; Tribunal de Mayor Riesgo A, *Pueblo de la Republica v. Esteelmer Francisco Reyes Giron and Heriberto Valdez Asig*, C-01076-2012-00021 OF.2º, 26.02.2016; International Criminal Tribunal for Rwanda, *The Prosecutor v. Jean-Paul Akayesu*, ICTR-96-4-T, 02.09.1998, paras. 508, 731; *Joint Statement by the Special Representatives of the Secretary-General on Sexual Violence in Conflict and for Children and Armed Conflict commending landmark conviction for crimes against humanity by the Democratic Republic of the Congo in the Kavumu child rape cases*, New York, 15.12.2017

8.1: International Court of Justice

The compelling crimes in the conflict in Bosnia and Herzegovina and later on in Kosovo had the horrifying component of widespread sexual violence against women, men, and children. Following World War II the communities had interrelated, especially in urban centres like Sarajevo. As it is common in conflicts where the ethnical boundaries are not distinct, rape was used to re-establish them. This was a paradox, as it contradicts the ethnosexual relations. Having sexual relations with allegedly impure women to build and reinforce the boundaries crossed.¹⁹¹ Following the discussion in the previous chapters, women's bodies were viewed by Serbian Christians as contaminated, and by penetrating and impregnating them, through the patrilineal transmission of ethnic identity, the impure body is creating a pure outcome, a Serb child, and at the same time the family and relatives of the woman and the woman herself is now perceived as violated and dirty and reject the result of this "purifying" process. It is obvious that this technique is dissolving the relationships between community members, family members, the connection of a woman to her own body and the child she is forced to bear.

In 1993 the then Republic of Bosnia and Herzegovina initiated proceeding in the ICJ against the then Federal Republic of Yugoslavia alleging violations of the Convention on the Prevention and Punishment of the Crime of Genocide. After the dissolution of the second, the respondent state was Serbia and Montenegro and finally Serbia, albeit the fact that responsibility for the events under examination involved Serbia and Montenegro. The Court in its judgement as regards to Srebrenica – as to the extermination of the adult male Muslim population – held that acts of genocide were committed, but the decision to commit them had been made by individuals. The applicant party didn't prove that they were planned, or committed by persons for whom the respondent was responsible, or with its knowing complicity. It held, nonetheless, that an obligation to prevent the genocide existed and it was one of conduct and not of result. The obligation was rather to employ all the means reasonably available to it, than to be successful in it. The authorities of FRY and its President, Slobodan Milošević, did not use their political, military and financial links to prevent the genocide from occurring and thereby the international responsibility of Serbia was engaged. Serbia had also failed in collaborating with the ICTY in

¹⁹¹ Nagel, J., *op. cit.* no. 2, pp. 26-27, 185; Carpenter, R. C., "Recognizing Gender-Based Violence against Civilian Men and Boys in Conflict Situations", *Security Dialogue*, Vol. 37, Iss. 1, 2006, pp. 94-96

the case of Ratko Mladić. As to the systematic massive mistreatment, rape and torture the Court concluded that the specific intent (*dolus specialis*) was not a component of them.¹⁹²

In the case against Serbia brought to the Court by Croatia, the Court concluded that Croats were the victims of physical injury, ill-treatment and acts of torture, rape and sexual violence. These acts caused such harm – bodily or mental – so as to contribute to the physical or biological destruction of the protected group. Further, it found that Croatia had failed to show that rapes and other acts of sexual violence were perpetrated in order to prevent births within the group (the Croats), and that, hence, the *actus reus* of genocide had not been established in this specific framework. The acts served the purpose of forcibly displacing the Croats, which did not entail their actual physical destruction.¹⁹³

8.2: Court of Justice of the European Union/European Communities

From its formation until today, the EU has implemented a wide range of legislative framework – either binding or not, and a plethora of case law that enshrines all the aspects of the organization’s areas of interest. Starting from equal pay, headed to domestic violence, politics, research and technology, there is no domain that the Court has not been asked to try. Accompanying the international conventional framework, the Treaty on EU (Maastricht Treaty), the Treaty of the Functioning of the EU, the Charter of Fundamental Rights,¹⁹⁴ and a number of Directives are the texts upon which the Court relies.¹⁹⁵

¹⁹² International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide, (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, ICJ Reports, 26.02.2007, paras. 291, 297, 319, 413-415, 423-424, 438--450, 465

¹⁹³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, ICJ Reports, 03.03.2015, paras. 296-360, 362-364, 395-401

¹⁹⁴ *Treaty of the European Union*, Articles 2, 3, 117, 118; *Treaty of the Functioning of the European Union*, Articles 8, 10, 157; *Charter of Fundamental Rights of the European Union*, Articles 23, 33

¹⁹⁵ Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), 05.07.2006; Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, 07.07.2010; Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography, 13.12.2011; Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), 05.07.2006; Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services, 13.12.2004; Directive 2002/73/EC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, 23.09.2002; Council Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC, 03.06.1996; Council Directive

In the case of *Defrenne v. SABENA*, the applicant complained that her wage was lower than her male counterparts, although undertaking identical employment tasks. According to the judges this was a clear case of discrimination based on sex marking the beginning of a new era in employees' rights. What needs to be underlined is the fact that the Court in order to reach this conclusion emphasized both the economic and social dimension of the organization and that non-discrimination will assist in accomplishing these objectives.¹⁹⁶

The Directives prohibit direct and indirect discrimination. As a result, a neutral policy that has disproportionate effects could allegedly be sustained an indirect form of discrimination. In a case that regarded a more flexible employment scheme, job-sharing, the Court found that since the requirements for salary raise and the working conditions affected women disproportionately – since the majority of part-time employees were women – this substantiates that it was indirect discrimination on the grounds of sex. But, after accepting the assertions of the German Government that the purpose was to provide affordable social welfare and that the burden would be prohibiting if the clause was lifted, the Court concluded that the differential treatment was justified and was not related to discrimination based on sex.¹⁹⁷

Apart from the cases regarding access to pension schemes, the case-law is indicative of the stereotypes engraved in national legislation regarding the private and family life, the core of gender normativity. The case of a woman that had a child through a surrogate and was denied maternity or adoptive leave is one of the scenarios that national laws have not predicted. In Ireland there was no provision regarding such cases which perplexed the situation. Since the applicant was never pregnant she could not fulfil the requirements for maternity leave, nor the adopting parent leave. The ECJ ruled in favour of the applicant, but in order to do so it placed on an equal footing the inability to bear a child with disabilities as in the UN Convention on the Rights of Persons with Disabilities.¹⁹⁸

As to the traditional perceptions of marriage and the inferior status of civil unions – which mostly regards non-heterosexual couples – a judgement brought against Germany will be depicted. The

92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, 19.10.1992

¹⁹⁶ "...the social objectives of the Community, which is not merely an economic union, but is at the same time intended, by common action, to ensure social progress and seek the constant improvement of the living and working conditions of their peoples..." European Court of Justice, *Defrenne v. Société anonyme belge de navigation aérienne Sabena*, C-43/75, 08.04.1976

¹⁹⁷ *Ursula Megner and Hildegard Scheffel v. Innungskrankenkasse Vorderpfalz*, C-444/93, 14.12.1995, paras. 22, 29-31

¹⁹⁸ *Z. v. A Government Department, The Board of Management of a Community School*, C-363/12, 18.03.2014

applicant complained about the more favourable calculation of pensions of married couples in contrast to the ones in a registered life partnership when the situations are similar and the Court concluded that there was discrimination on the basis of sexual orientation.¹⁹⁹

Example of discrimination against men who are more involved in child rearing is the case of *Ulrich Hofmann*. The plaintiff was denied access to paid benefits that were available only to mothers, although he was the primary carer of his child. After the end of the maternity leave and by the six months of age of the child, Mr. Hofmann had been granted unpaid leave. If instead of the applicant, the mother requested further maternity leave beyond the two months, she could claim state-paid benefits. The ECJ ruled that the fact that the benefits were only granted to mothers was not a violation of the relevant Directive (Directive 26/207), as it is not designed to settle matters of family organization or to interfere with the division of responsibilities between parents.²⁰⁰ This is surprising, since it relies on the notion of what the division of responsibility should be beforehand, and apart from excluding fathers at the same time is obliging mothers to be the primary carers.

In a Greek instance, a father was denied parental leave on the grounds that his wife was not working, accordingly to the provisions of the national law. The Court underlined that the right to parental leave is granted to each individual (adoptive) parent and this right cannot be denied based on the employment status of a spouse. In addition, a similar provision that links mother's leave with the employment status of their husbands is not in force. The scope of the Directive was to ensure women's participation in the workforce and men's participation in the upbringing of children, and based on this target the restriction upon the applicant was not in accordance to it.²⁰¹

In the case of *Lommers* – regarding the access to kindergarten facilities of a male employee's child – the Court pointed out that proportionality needs to be paid due regard and that a measure in force for ensuring full equality in working life, is liable to perpetuate traditional roles by keeping men in a role subsidiary to that of women in relation to parental duties.²⁰²

¹⁹⁹ *Jürgen Römer v. Freie und Hansestadt Hamburg*, Grand Chamber, C-147/08, 10.05.2011, para. 52

²⁰⁰ The stereotypical view of motherhood, pregnancy and child-birth are present in the reasoning of the Court: "...to ensure the protection of a woman's biological condition during pregnancy and thereafter until such time as her physiological and mental functions have returned to normal after childbirth..." *Ulrich Hofmann v. Barmer Ersatzkasse*, C-184/83, 12.07.1984, p. 3075

Ulrich Hofmann v. Barmer Ersatzkasse, C-184/83, 12.07.1984, pp. 3075-3076

²⁰¹ *Konstantinos Maistrelis v. Ypourgos Dikaiosynis, Diafaneias, kai Anthroponon Dikaiomaton*, C-222/14, 16.07.2015, paras. 31-33, 36, 40-41, 48-52

²⁰² *H. Lommers v. Minister van Landbouw, Natuurbeheer en Visserij*, C-476/99, 19.03.2002, paras. 30, 39, 41-42

The Court was also called to rule upon the grounds for asylum and if sexual orientation can be one of them along with the membership in a particular social group. In the cases of 2013, the Raad van State Court in the Netherlands, in its arguments, stated that:

“the Minister... did not expect foreign nationals to conceal their sexual orientation in their country... that did not mean that they must be free to publicly express it in the same way as in the Netherlands.”

The national court has raised the question whether homosexuals comprise a social group. The ECJ laid down two components, share an innate characteristic so fundamental that one should not be forced to renounce it and to be perceived as different. As to the first one, homosexuals can be a social group, and as to the second it depends on the outer context of the country of origin. As to the persecution, not every violation of fundamental rights can be included and there needs to be a certain severity threshold. It continued with which specific acts against an individual can grant him/her asylum. It included the enforcement of penalisation and incarceration for homosexuality. More importantly it ascertained that a person should not be obliged to hide a characteristic so important for his/her character in order to avoid persecution upon the return to the country of origin and the fear of persecution is not upon the individual to mitigate, so when assessing asylum applications the extent to which the applicant can avoid the incurrance of it is not relevant.²⁰³ In another set of cases – with the UN High Commissioner on Refugees as intervener – the same Dutch Court asked the ECJ what restrictions apply in the testing of asylum claims on the grounds of persecution due to sexual orientation. The conclusions reached were that questions based on stereotypes and sexual practices, homosexuality “tests”, the examination of evidence of sexual content are inconsistent with the right to privacy and human dignity. More importantly, the Court asserted that the fact that the applicants did not disclose their sexual orientation in their first application, but only after its rejection does not necessarily mean that it is not a credible statement.²⁰⁴

²⁰³ *Minister voor Immigratie en Asiel v. X., Y., Z.*, C-199/12, C-200/12, C-201/12, 07.11.2013, paras. 43, 53-54, 61, 64-65, 69-72

²⁰⁴ *A. and Others v. Staatssecretaris van Veiligheid en Justitie*, Grand Chamber, C-148/13, C-149/13, C-150/13, 02.12.2014, paras. 43, 62-66, 69, 71-72

8.3: European Court of Human Rights

Insofar to the obligations of States when confronted with violence occurring between individuals without the direct involvement of State's actors, the Court has found in numerous cases (domestic violence, assault, rape) brought before it that the complete lack or inadequacy of positive action to protect citizens – including against unnecessary medical procedures and other criminal proceedings that further the traumatisation – and investigate in a thorough manner (“*not an obligation of result, but of means*”) acts of State and non-State actors – even if the victim has withdrawn complaints/charges – is in breach of the Convention, in particular Article 3 that prohibits torture and inhuman or degrading treatment or punishment, and/or Article 2 for the right to life, and/or Article 8 for the right to private and family life and home – which incorporates physical and psychological integrity and the threats against it. Moreover, the delays in the proceedings – especially in cases of domestic violence – are exhibitions of absence of the due diligence needed from the States' side. What has been noted with worry is the perception of the authorities that only serious harm calls for protective measures, excluding psychological, economic and minor physical violence and resulting in “*condoning*” further violence. Lastly, another breach, discriminatory treatment was founded due to the nature of the violence, thus GBV (violation of Article 14 of the European Convention of Human Rights).²⁰⁵

In the cases of sexual abuse of minors the Court held that States should provide effective protection of children and other vulnerable persons and take action towards prevention. In some cases it lodged that the States fell short in their positive obligations to investigate sufficiently the surrounding circumstances due to their overriding of the special vulnerability of young persons (or mentally impaired ones) and the psychological effect inflicted on minors in cases of rape. The Court used the provisions of

²⁰⁵ “...the especially cruel act of rape to which she was subjected amounted to torture...” European Court of Human Rights, *Aydin v. Turkey*, Grand Chamber, No. 57/1996/676/866, 25.09.1997, para. 86; *Bălșan v. Romania*, No. 49645/09, 23.08.2017, paras. 59-72, 78-89; *M. G. v. Turkey*, No. 646/10, 22.03.2016, paras. 60-62, 108-120; *Y. v. Slovenia*, No. 41107/10, 28.05.2015, paras. 99-100, 104, 106, 108, 109, 112-114; *Durmaz v. Turkey*, No. 3621/07, 13.11.2014, paras. 54, 56-67; *T. M. and C. M. v. The Republic of Moldova*, No. 26608/11, 28.01.2014, paras. 36, 38-39, 43, 46-52, 57, 59-60, 62; *D. J. v. Croatia*, No. 42418/10, 24.07.2012, paras. 85-86, 90, 94, 96; *B. v. The Republic of Moldova*, No. 61382/09, 16.07.2013, paras. 43, 45, 46, 49, 52-61; *Mudric v. The Republic of Moldova*, No. 74839/10, 16.07.2013, paras. 40, 42-43, 50-55, 63-64; *Eremia and Others v. The Republic of Moldova*, No. 3564/11, 28.05.2013, paras. 49, 51-52, 59-63, 86-89; *Valiyliene v. Lithuania*, No. 33234/07, 23.03.2013, paras. 70, 74-75, 77, 79-80, 82, 85; *Hajduova v. Slovakia*, No. 2660/03, 30.11.2010, paras. 45, 48-50; *Calucz v. Hungary*, No. 57693/10, 24.04.2012, paras. 58-59, 64-69; *A. v. Croatia*, No. 55164/08, 14.10.2010, paras. 58-60, 67, 78-79; *E. S. and Others v. Slovakia*, No. 8227/04, 15.10.2009, paras. 40, 43-44; *Branko Tomasic and Others v. Croatia*, No. 46598/06, 15.01.2009, paras. 43, 49-51, 53-56, 58, 60-61; *Bevacqua and S. v. Bulgaria*, No. 71127/01, 12.06.2008, paras. 64-65, 71-76, 83-84; *Kontrova v. Slovakia*, No. 7510/04, 31.05.2007, paras. 49-50, 52, 54; *M. C. v. Bulgaria*, No. 39272/98, 04.12.2003, paras. 148-153, 169, 184; *Z. B. v. Croatia*, No. 47666/13, 11.07.2017, paras. 48, 51, 59, 61-62; *Opuz v. Turkey*, No. 33401/02, 09.06.2009, paras. 128, 144, 159, 191, 198

Chapter VI of the CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, as well as the European Convention of Human Rights and the UN Convention on the Rights of the Child to found the obligations of the States.²⁰⁶ When instances of forced intercourse with a minor arise, access to lawful abortion should not be hindered, as was the case of a fourteen year old that was separated from her parents in order to prevent the procedure subsequently to her molestation.²⁰⁷

Another extremely astonishing observation is the fact that National Courts continued to examine whether physical resistance by the victim was expressed or other types of victim's behaviour, such as alcohol use prior to the incident, and if the perpetrator(s) were capable of breaking such resistance. According to the Court which is in alignment with the realities experienced by victims as was elaborated in Chapters IV and V, States have the obligation of penalising all non-consensual sexual acts regardless of victim's resistance of any form. The Court while making these submissions stated the developments in this area by other international tribunals, the ICTR and ICTY, contributing to the uniformity of the application of standards regarding sexual violence in a broader sense to incorporate forms that do not involve or are limited to penile penetration.²⁰⁸

In continuation to the previous discussion about the interconnection between asylum status and domestic violence and to examine the acts deriving from State's authorities there has been another case filed to the migration board of Sweden. The applicant moved to the country from Afghanistan with her husband. Their requests for asylum had been denied, as well as her file for divorce since they were not residing legally in the country. Her husband also denied the petition for the dissolution of the marriage. Subsequently, she requested a review of her asylum petition to stop her deportation, since upon her return she would be subjected to the death penalty due to the initiation of a relationship with another man – thus committing adultery. The Court concluded that her return would impose her to inhuman or degrading treatment (Article 3) by her husband, his family, her family and the society and the fact that

²⁰⁶ United Nations General Assembly, *op. cit.* no. 47; European Court of Human Rights, Council of Europe, *op. cit.* no. 141; Council of Europe, *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*, 25.X.2007; *M. C. v. Bulgaria*, *ibid.*, paras. 149, 177-183; *M. G. C. v. Romania*, No. 61495/11, 13.03.2016, paras. 65, 72, 73, 74; *O'Keeffe v. Ireland*, Grand Chamber, No. 35810/09, 28.01.2014, paras. 124, 126, 144, 146; *W. v. Slovenia*, No. 24125/06, 23.01.2014, paras. 64, 70; *D. J. v. Croatia*, No. 42418/10, 24.07.2012, paras. 68-70; *X. and Y. v. The Netherlands*, No. 8978/80, 26.03.1985, paras. 23, 27

²⁰⁷ *P. and S. v. Poland*, No. 57375/08, 30.10.2012, paras. 99, 108-111, 148-149, 168-169

²⁰⁸ *M.C. v. Bulgaria*, *op. cit.* no. 205, para. 102-107, 126-128, 156, 162-164, 166, 173, 179, 185; *M. G. C. v. Romania*, No. 61495/11, 13.03.2016, paras. 38, 45, 62-65; *W. v. Slovenia*, No. 24125/06, 23.01.2014, para. 8; *D. J. v. Croatia*, *op. cit.* no. 205, para. 101

she wanted a divorce exacerbated this risk.²⁰⁹ Although progress has been made in recognizing GBV as grounds for asylum and the fact that FGM can amount to ill-treatment, hitherto no cases have been successful at the European Court of Human Rights regarding FGM as adequate reason for asylum.²¹⁰

Detention is another indicative example of the extenuating circumstances during which the applicant is in a state of vulnerability.²¹¹ Two cases against Turkey regarding coerced gynaecological examinations – among others – have stated that it constitutes a breach of the right to respect for private life (Article 8).²¹² In another case the Court held that the applicant’s solitary confinement was due to his sexual orientation and not for his protection and as a result he was the victim of discrimination.²¹³

To examine homosexual expressions a bit further, there have been cases of males brought to the Court, which found violations to the right for private life (Article 8). This is in alignment with the findings presented in the previous chapters.²¹⁴ A pending application lodged against France regards the rights of same-sex partners to have access to procreating medical facilities, as others have dealt with adoption rights or access rights.²¹⁵ Other cases addressed the issue of homosexual, and their ban from the armed forces,²¹⁶ or discrimination by the police or other individuals in violation of the prohibition of discrimination (Article 14) in conjunction with other articles.²¹⁷

Although the cases regarding gender identity of trans persons until the end of the 1990’s did not find violations of the Convention in regards to the right to private and family life (Article 8),²¹⁸ in the

²⁰⁹ “...women are at particular risk of ill-treatment in Afghanistan if perceived as not conforming to the gender roles ascribed to them by society, tradition and even the legal system...” Para. 55

N. v. Sweden, No. 23505/09, 20.07.2010, paras. 35-37, 52, 55-62

²¹⁰ *Omeredo v. Austria*, No. 8969/10, Decision as to the admissibility, 20.09.2011; *Izevbekhai and Others v. Ireland*, No. 43408/08, Decision as to the admissibility, 17.05.2011; *Collins, E. and Akaziebie, A. v. Sweden*, No. 23944/05, Decision as to the admissibility, 08.03.2007

²¹¹ *Aydin v. Turkey*, *op. cit.* no. 205, paras. 83-84

²¹² *Juhnke v. Turkey*, No. 52515/99, 22.07.2013, paras. 79-82; *Y. F. v. Turkey*, No. 24209/94, 22.07.2003, paras. 44

²¹³ *X. v. Turkey*, No. 24626/09, 09.10.2012

²¹⁴ *Dudgeon v. The United Kingdom*, No. 7525/76, 22.10.1981, paras. 38, 60-61, 63; *Norris v. Ireland*, No. 10581/83, 26.10.1988, paras. 35-38; *Modinos v. Cyprus*, No. 15070/89, 22.04.1993, paras. 20-24

²¹⁵ *Charrom, M., and Merle-Montet, E., v. France*, No. 22612/15, 19.01.2017; *Gas and Dubois v. France*, No. 25951/07, 15.03.2015, paras. 61-73; *X. and Others v. Austria*, Grand Chamber, No. 19010/07, 19.02.2013, paras. 92-97, 126-131; *E. B. v. France*, Grand Chamber, No. 43546/02, 22.01.2008, paras. 46-52, 81-96; *Salgueiro da Silva Mouta v. Portugal*, No. 33290/96, 21.12.1999, paras. 33-36

²¹⁶ *Perkins and R. v. The United Kingdom*, Nos. 43208/98, 44875/98, 22.10.2002, paras. 38-41; *Beck, Copp and Bazeley v. The United Kingdom*, Nos. 48535/99, 48536/99, 48537/99, 22.10.2002, paras. 51-53

²¹⁷ *Identoba and Others v. Georgia*, No. 73235/12, 12.05.2015, paras. 68-71, 79-81

²¹⁸ *Rees v. The United Kingdom*, No. 9532/81, 17.10.1986, paras. 45-47; *Cossey v. The United Kingdom*, No. 10843/84, 27.09.1990, paras. 37-42; *X., Y. and Z. v. The United Kingdom*, Grand Chamber, No. 21830/93, 22.04.1997, paras. 45-52; *Sheffield and Horsham v. The United Kingdom*, Grand Chamber, No. 31-32/1997/815-816/1018-1019, 30.07.1998, paras. 51-61

beginning of the 2000's the Court has made a turning point. Two judgements delivered on the same day recognized that the lack of recognition of the changed gender is a violation and specifically in the fields of employment and pension schemes and the inability to marry.²¹⁹ The fact that these petitions needed to be examined by the Grand Chamber may be indicative of the difficulty to reach a common understanding regarding transsexualism between the parties. Albeit reluctantly and with the procedure reaching the Grand Chamber, the Court made a statement and clarified that human rights are inalienable. What astounds me is the fact that while in the early 1980's the Court kept a firm stance stating that:

*“Although members of the public who regard homosexuality as immoral may be shocked, offended or disturbed by the commission by others of private homosexual acts, this cannot on its own warrant the application of penal sanctions when it is consenting adults alone who are involved.”*²²⁰

in order to remind to States that their obligations are not dependent upon the opinions of a proportion of their citizens, and yet delayed almost two decades in clearing the coast in regards to trans individuals. In the *Goodwin case* the individual had been provided a reassignment surgery by the national health system, and was repeatedly assessed by psychologists and psychiatrists.²²¹ So, the fact that all the procedures were performed by state's authorities, but ultimately the denial in one's gender identity was contradicting. As to the practice of sterilisation before gender reassignment surgeries a case against Turkey has dealt with this issue stating that this precondition is a violation of the right to private life.²²² Today, most of the members offer a limited range of gender identity protection which does not address all the aspects that are affected due to the exacerbated vulnerability of LGBTQI+ individuals.²²³

In examining the trafficking of human beings, a case against Cyprus and Russia regarding the death of a trafficking victim has underlined the obligation of authorities to enforce appropriate legislation in order to eliminate the favourable conditions and to duly investigate when credible suspicion exists that a person is trafficked (Cyprus), and to identify the recruiters (Russia). Referring to

²¹⁹ *Christine Goodwin v. The United Kingdom*, Grand Chamber, No. 28957/95, 11.07.2002, para. 101; *I. v. The United Kingdom*, Grand Chamber, No. 25680/94, 11.07.2012, para. 88

²²⁰ *Dudgeon v. The United Kingdom*, *op. cit.* no. 214, para. 60

²²¹ *Christine Goodwin v. The United Kingdom*, *op. cit.* no. 219, paras. 13, 77-78; *I. v. The United Kingdom*, Grand Chamber, *op. cit.* no. 219, paras. 57-58

²²² *Y. Y. v. Turkey*, No. 14793/08, 10.03.2015, paras. 116-122

²²³ Council of Europe, *Discrimination on Grounds of Sexual Orientation and Gender Identity in Europe*, 2nd Edition, Strasbourg, pp. 123-124

ICTY, the Court noted that trafficking – as a form of slavery – entails the exercise of powers in conjunction to ownership.²²⁴ Cases have dealt with domestic workers and the prohibition of slavery and servitude.²²⁵ Another recent case depicts the trafficking of men for forced labour and was brought against Greece. It involves forty-two Bangladeshi nationals that were working in fields under harsh conditions. The Court ruled that Greece failed to prevent the trafficking, provide protection, investigate the situation and punish the offenders.²²⁶

As to the access to abortion when serious concerns about the woman's health arise, some countries still do not provide for it. The cases to the Court are against Ireland and Poland that admittedly are very conservative at this domain. In all of the three the conclusion was that the right to respect for private and family life had been impeached.²²⁷

In a concluding note, although the Court refrains from indicating specific measures in order for the States to be compliant, so as to accommodate their specific national needs, it has mentioned that effective deterrence can be achieved through the existence of criminal law provisions that are implemented duly by the law enforcement mechanisms.²²⁸ It has a gender-neutral approach as well, as it has recognized that men and children are impacted by domestic violence.²²⁹ The case law extends to all aspects of private life safeguarding that the contracting parties are in accordance to their commitments.

In the beginning of this peripheral human rights system the States did not hesitate to bring cases against other parties to the Convention. The cases of Greece against the UK for the treatment of detainees in Cyprus during the colonial years and later on of Cyprus against Turkey for the occupation have a gender perspective, although back then that was not one of the concerns of the Court yet.²³⁰

As in many other conflicts, in the case of Cyprus the gender perspective has long been omitted or sidelined in the process of negotiations and the number of women participating minimal,²³¹ even

²²⁴ *Rantsev v. Cyprus and Russia*, No. 25965/04, 07.01.2010, paras. 142-143, 242, 280-281, 289, 291-293, 298, 300, 308

²²⁵ *C. N. v. The United Kingdom*, No. 4239/08, 13.11.2012, paras. 70, 73, 81; *Siliadin v. France*, No. 73316/01, 26.07.2005, paras. 89, 112, 148

²²⁶ *Chowdury and Others v. Greece*, No. 21884/15, 30.03.2017, paras. 88-89, 96-97, 103-104

²²⁷ *Tysiack v. Poland*, No. 5410/03, 20.03.2007, paras. 105-108, 116-126; *A., B., and C., v. Ireland*, Grand Chamber, No. 25579/05, 16.12.2010, paras. 125-131; *R. R. v. Poland*, No. 27617/04, 26.05.2011, paras. 101-109, 158-160

²²⁸ *O'Keeffe v. Ireland*, *op. cit.* no. 206, para. 148; *M. C. v. Bulgaria*, *op. cit.* no. 193, para. 150

²²⁹ *Opuz v. Turkey*, *op. cit.* no. 205, para. 132

²³⁰ *Greece v. United Kingdom (I)*, No. 176/56, 20.04.1959, 17.09.1997, paras. 235, 297-301, 318-321, 337-339; *Greece v. United Kingdom (II)*, No. 299/57, 14.12.1959, 05.04.2006

²³¹ Aolain, F. D. N., "Gendering the Law of Occupation: The Case of Cyprus", *Minnesota Journal of International Law*, Forthcoming, 04.10.2017; Committee on the Elimination of Discrimination against Women, *Concluding*

after the UN Security Council Resolution of 2000.²³² As was mentioned earlier, during periods of conflict the forms of violence are engendered. Women were the victims of rape and men of torture as prisoners. Evidence of sexual violence against Greek-Cypriot women was contained in the legal arguments advanced in the interstate *Cyprus v. Turkey case*, which addressed a range of Convention's violations instigated by the invasion and its aftermath. The Commission held that the Turkish authorities did not take any action to prevent sexual violence, nor punish its occurrence, and considered the non-prevention imputable to Turkey. The Court had substantial evidence of rape and accepted that it was inhuman treatment imputable to Turkey.

The continuing violations of the right to life and liberty (Articles 2 and 5) regarding the fate of Greek-Cypriot missing persons that were under Turkish custody at the time, and a continuing violation of the prohibition of inhuman or degrading treatment (Article 3) regarding their relatives due to the inaction of Turkish authorities to initiate investigations for their whereabouts was another pillar. In this case, the Court rejected the claim of Turkey that TRNC was an independent State and thus Turkey was confined to the acts or omissions in that territory. But the Court, noting a previous decision over this matter in the *Loizidou v. Turkey case*, stated that insofar as the armed forces of Turkey had effective control over persons and property abroad, they were acting as State's agents and brought such persons and property under its jurisdiction which raised its responsibility.²³³

As to the massacre in Srebrenica, the Court deemed the allegation that the access to court was not violated, when national courts did not admit the cases brought against the UN. The fact that the UN personnel were under immunity served a legitimate purpose. Moreover, the national courts and the European Court could not interfere with the work of the UN in its task to secure peace and security, and in extent dispute the decisions of the Security Council.²³⁴

comments of the Committee on the Elimination of Discrimination against Women: Cyprus, Suppl. No. 38 (A/61/38), para. 270

²³² United Nations Security Council, S/RES/1325, 2000

²³³ *Cyprus v. Turkey (I) & (II)*, Nos. 6780/74, 6950/75, 10.07.1976, p. 4; *Cyprus v. Turkey (III)*, No. 8807/77, 04.10.1983, paras. 63-64, 117-118; *Cyprus v. Turkey (IV)*, No. 25781/94, 10.05.2001, paras. 23-24, 75-80, 127-129, 132-133, 135-136, 155-157; *Varnava and Others v. Turkey*, Grand Chamber, Nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90, 16073/90, 18.09.2009, paras. 148-150, 200-202, 208; *Loizidou v. Turkey*, 15318/89, 18.12.1996, paras. 56-57

²³⁴ *Stichting Mothers of Srebrenica and Others v. The Netherlands*, No. 65542/12, 27.06.2013, paras. 154, 158-159, 165, 169

In a more recent conflict, the one in Chechnya many cases are brought regarding abduction and disappearances,²³⁵ extra-judicial killings by State's servicemen²³⁶ and the lack of sufficient investigations and remedies. The violations are founded on the right to life, failure to conduct effective investigations and the prohibition of inhuman or degrading treatment (Articles 2 and 3). The interstate application of Georgia against Russia for the events in Abkhazia and South Ossetia have been relinquished in favour of the Grand Chamber and the judgement is still pending.²³⁷ Apart from individual petitions, Ukraine has also five pending interstate applications regarding the ill-treatment of Ukrainians of the Tatar ethnic group.²³⁸

8.4: International Criminal Tribunal for the former Yugoslavia

The ICTY has concluded in many cases violations of the humanitarian and human rights law. Rape was included in the triable war crimes in the former Yugoslavia, although some posited that it is not a grave breach of international humanitarian law.²³⁹ But there were also doubts about the prosecution of superiors.²⁴⁰ *Furundzija* case has contributed to the international recognition of rape as a form of torture, while others as a crime against humanity. In addition, sexual enslavement was recognized as a crime against humanity. To adjust the different testimonies of victims, the scope of crimes of sexual violence is much broader to include other forms of demeaning sexual conduct that do not necessarily include penetration by male genitalia, like nudity. In this case, the Court also clarified the context, thus coercion, force, or threat of force.²⁴¹ According to Michelle Jarvis there was a sexual element in ninety three out of the some one hundred sixty-one indictments.²⁴²

²³⁵ *Petimat Ismailova and Others v. Russia*, Nos. 25088/11, 44277/11, 44284/11, 44313/11, 48134/11, 49486/11, 52076/11, 52182/11, 55055/11, 56574/11, 64266/11, 66831/11, 18.09.2014, paras. 387-389, 394-396, 401-406

²³⁶ *Musayev and Others v. Russia*, Nos. 57941/00, 58699/00, 60403/00, 26.07.2007, paras. 155, 160-164, 169-170

²³⁷ *Georgia v. Russia (II)*, No. 38263/08

²³⁸ *Ukraine v. Russia (III)*, 01.09.2015, Strike-out; *Ukraine v. Russia*, No. 20958/14; *Ukraine v. Russia (II)*, No. 43800/14; *Ukraine v. Russia (IV)*, 42410/15; *Ukraine v. Russia (V)*, No. 8019/16; *Ukraine v. Russia (VI)*, No. 70856/16

²³⁹ Wald, P. M., "Women on International Courts: Some Lessons Learned", *International Criminal Law Review*, Vol. 11, 2011, pp. 401-408, p. 405

²⁴⁰ Etienne, M., *op. cit.* no. 8, p. 141; *Statute of the International Criminal Tribunal for the former Yugoslavia*, Articles 2, 5

²⁴¹ *Prosecutor v. Furundzija*, Trial Chamber, No. IT-95-17/1, 10.12.1998, paras. 170, 181-189, 259; *Prosecutor v. Kunarac et. al.*, Trial Chamber, No. ICTY-96-23, 22.02.2001, paras. 174, 557; *Prosecutor v. Delalic*, Trial Chamber, No. ICTY-96-21, 16.11.1998, paras. 491, 496, 543

²⁴² Balkan Transitional Justice, "Wartime Sexual Crimes: A Challenge for Balkan Prosecutors", 22.06.2017, Available at: <http://www.balkaninsight.com/en/article/wartime-sexual-crimes-a-challenge-for-balkan-prosecutors-06-22->

The UN Commission of Experts' Final Report found that sexual assaults conducted in the wars in Bosnia and Croatia were systematic and executed with clear political purpose.²⁴³ Violence – including of sexual nature – against women²⁴⁴ – 80% while in custody²⁴⁵ – and men in general and of military age in particular²⁴⁶ was reported, with main site the various camps of the warring groups.²⁴⁷ Women were participating alongside men in the heinous acts of castration.²⁴⁸ Rape and sexual assault were utilized as a weapon of ethnic cleansing and impregnation.²⁴⁹ The Commission noted that the blurred structure of the warring factions concealed responsibility making deniability more plausible.²⁵⁰

In the *Nikolic* case the accused admitted that many Muslim women were raped and subjected to degrading physical and verbal abuse.²⁵¹ Depictions of rapes of women in camps, and mistreatment as to interrogations of prisoners, like severe beatings, rapes, torture and humiliation were found in the *Tadic* case. One of the witnesses stated that *Tadic* had compelled one prisoner to sexually mutilate another.²⁵² In the *Brdanin* case the Court was justified to the fact that beatings were so severe to result in serious injury or even death. In addition, beatings and humiliation were often administered in the presence of other detainees, and information about rape of women in camps was presented.²⁵³ The same facts were posited in the *Kvocka* case.²⁵⁴ There is a case that male rape has been explicitly tried as such where two brothers were forced to perform oral sex to each other.²⁵⁵

In the *Mladic* case the evidence showed that women and girls were brutally raped, prisoners were starved, beaten, and forced to perform degrading sexual acts. In conclusion, the systematic murder of several thousand Bosnian Muslim men and boys was one of the crimes in trial.²⁵⁶

2017?utm_source=Balkan+Transitional+Justice+Daily+Newsletter+--+NEW&utm_campaign=406f0aac93-RSS_EMAIL_CAMPAIGN&utm_medium=email&utm_term=0_a1d9e93e97-406f0aac93-319775173

²⁴³ *Final Report of the Commission of Experts established pursuant to Security Council Resolution 780 (1992)*, United Nations Security Council, S/1994/674, 1994, paras. 142, 147

²⁴⁴ *Ibid.*, paras. 171, 176, 230 (n), 230 (o), 232-234, 249

²⁴⁵ *Final Report...*, *op. cit.* no. 241, para. 236

²⁴⁶ *Final Report...*, *op. cit.* no. 241, paras. 169, 170, 179, 230 (i), 230 (j), 230 (l), 230 (m), 230 (o), 230 (p), 235, 247

²⁴⁷ *Final Report...*, *op. cit.* no. 241, paras. 223, 227-230

²⁴⁸ *Final Report...*, *op. cit.* no. 241, para. 247

²⁴⁹ *Final Report...*, *op. cit.* no. 241, paras. 129-130, 237, 248

²⁵⁰ *Final Report...*, *op. cit.* no. 241, para. 124

²⁵¹ *Prosecutor v. Nikolic*, Trial Chamber, No. IT-94-2, 18.12.2003, paras. 87-90

²⁵² *Prosecutor v. Tadic*, Trial Chamber, No. IT-94-1, 07.05.1997, paras. 155-158, 163-167, 172-177, 194-206, 346-348

²⁵³ *Prosecutor v. Brdanin*, Trial Chamber, No. IT-99-36, 01.09.2004, paras. 483-485

²⁵⁴ *Prosecutor v. Kvocka et al.*, Trial Chamber, No. IT-98-30/1, 02.11.2001, para. 114

²⁵⁵ *Prosecutor v. Češić*, Trial Chamber, No. IT-9-10/1, 11.03.2004, paras. 13-14

²⁵⁶ *Prosecutor v. Mladic*, Trial Chamber, No. IT-09-92, 22.11.2017

The wonder emerges; what are the motives into committing such horrendous crimes. According to Carl Bildt, a European Union and United Nations peace envoy who had met with Mladić, prejudice-laced narratives that derive from the Ottoman occupation were the corroborating factor.²⁵⁷

As to Kosovo, the worst single crime in Kosovo occurred in late April 1999, when about three hundred and fifty male civilians were killed in the course of Operation Reka. The crimes against Kosovo Albanians in 1999 were the subject of three ICTY trials: *Slobodan Milošević, Šainović et al. (Milan Milutinović et al.)*, and *Đorđević*. Milošević died in custody before his trial ended and the other two trials resulted in judgments. In both trials, the judges concluded that in 1999 there was a joint criminal enterprise whose goal was to change the ethnic balance in Kosovo by expelling Albanians.²⁵⁸ According to the Organization for Security and Cooperation in Europe Kosovo Albanian men of fighting age were targeted in killings, arbitrary detention and torture, and women to violence targeting their gender.²⁵⁹

8.5: International Criminal Court

The ICC is currently in the preliminary examination of the situation in Ukraine and the conduct of United Kingdom's forces in Iraq, and has decided to initiate an investigation for the situation in Georgia. Some cases have already been brought to the European Court of Human Rights regarding the conduct of UK forces when they were the occupying power in Iraq.²⁶⁰

The authorization regarding Georgia covers the period from the 1st of July 2008 to the 10th of October 2008, for war crimes and crimes against humanity allegedly committed in and around South Ossetia. The Prosecutor alleges the commission of the war crimes of wilful killing or murder, destruction of property and pillage, and intentionally directing attacks against peacekeepers, the crimes against

²⁵⁷ *Final Report...*, *op. cit.* no. 241, para. 131; Rohde, D., "Why Did Ratko Mladic Commit Genocide against Bosnia's Muslims?", *The New Yorker*, 26.11.2017, Available at: https://www.newyorker.com/news/news-desk/why-did-ratko-mladic-commit-genocide-against-bosnias-muslims?mbid=nl_Daily%20112717%20Nonsubs&CNDID=6085842&spMailingID=12446149&spUserID=MTczNTAzMjYxNzEyS0&spJobID=1282480422&spReportId=MTI4MjQ4MDQyMgS2

²⁵⁸ ICTY, Witness Information, K0529683, 06.07.2006; *Prosecutor v. Milosevic et al.*, Indictment, No. IT-99-37, 22.05.1999, paras. 37, 51, 91, 95, 98; *Prosecutor v. Šainović et al.*, Trial Chamber, No. IT-05-87, 26.02.2009, pp. 7-8, 251-252, 318-321; *Prosecutor v. Đorđević*, Trial Chamber, No. IT-o5-87/1, 27.01.2014, pp. 696-698. 703-705, 848-849

²⁵⁹ Organization for Security and Co-Operation in Europe, *As Seen, As Told*, Warsaw, 1999

²⁶⁰ Official website of the International Criminal Court, www.icc-cpi.int; European Court of Human Rights, *Al-Saadoon and Mufdhi v. The United Kingdom*, Grand Chamber, No. 61498/08, 02.03.2010; *Al-Skeini and Others v. The United Kingdom*, Grand Chamber, No. 55721/07, 07.07.2011; *Hassan v. The United Kingdom*, Grand Chamber, No. 29750/09, 16.09.2014

humanity of murder, deportation or forcible transfer of population and persecution. The Prosecutor has also gathered evidence on a limited number of reports of sexual and GBV including rape.²⁶¹

In regards to eastern Ukraine the alleged crimes include threats of sexual and GBV in the context of detention against civilians and members of the armed forces. The offenders were state as well as non-state actors. One of the concerns of the Prosecutor is the underreporting due to the cultural taboos and social stigma associated with these situations, and the lack of supporting mechanisms for victims.²⁶²

The UK has ratified the Statute of the Court which gives jurisdiction for crimes committed on UK territory or by UK nationals. The alleged charges constitute systematic abuses of detainees in UK-controlled facilities across the territory of Iraq from 2003 through 2008, unlawful killing in custody and outside of custody. Finally, there are nineteen cases of alleged rape in detention and twenty-six cases of other forms of sexual violence (touching of genitalia, forced masturbation, forced or simulated sexual acts, and forced exposure to sexual acts by individual soldiers or between soldiers).²⁶³

A recent study by the UN pays attention to GBV against men and boys – aged between ten and eighty years old – during the conflict in Syria. The settings ranged from detention, make-shift prisons or in displacement. Reported forms of sexual violence included rape and mutilation or shooting of genitals. Given the taboos surrounding violence against males, the report is under the limitation of keeping aspects of it unexplored. Allegedly, the Syrian government, the Islamic State in Iraq and the Levant (ISIL) and non-governmental armed groups are responsible for crimes against humanity, including murder, rape, sexual servitude or other forms of sexual violence, torture, and other inhumane acts.²⁶⁴ In extent, it can be stretched that the inexcusable delays of host countries to ensure safety in their premises will raise their accountability in the future before the international tribunals.

²⁶¹ *Decision on the Prosecutor's Request for Authorization of an Investigation into the situation in Georgia covering the period from 1 July 2008 to 10 October 2008, for War Crimes and Crimes against Humanity allegedly committed in and around South Ossetia*, ICC-01/15, 2016; The Office of the Prosecutor, *Request for Authorisation of an Investigation pursuant to Article 15*, ICC-01/15, 2015, paras. 4, 12

²⁶² The Office of the Prosecutor, *Report on Preliminary Examination Activities 2016*, 2016, paras. 174, 183; The Office of the Prosecutor, *Report on Preliminary Examination Activities 2015*, 2015, para. 238

²⁶³ The Office of the Prosecutor, *Report on Preliminary Examination Activities 2015*, 2015, paras. 29, 33, 38; The Office of the Prosecutor, *Report on Preliminary Examination Activities 2014*, 2014, paras. 49-53

²⁶⁴ Chynoweth, S., *"We Keep it in Our Hearts": Sexual Violence against Men and Boys in the Syria Conflict*, United Nations High Commissioner for Refugees, 2017, pp. 21, 23-35

See also: Dolan, C., "Letting Go of the Gender Binary: Charting New Pathways for Humanitarian Interventions on Gender-Based Violence", *International Review of the Red Cross*, Vol. 96(894), 2014, pp. 485-501, p. 487; Chertoff, E., "Prosecuting Gender-Based Persecution: The Islamic State at the ICC", *The Yale Law Journal*, Vol. 126, 2017, pp. 1050-1117

Epilogue

As in victims of persecution or torture, whereas the impact of degradation and maltreatment are apparent; they themselves incorporate this humiliation inwards, resulting in viewing themselves as something less than human, the same effect is observed in survivors of GBV.

A pattern of violence and discrimination permeates most societies. Discrimination and violence begin from the earliest stages of life and continue unabated. The extensive presentation of the context and results of this phenomenon had the scope of being utilized as the lenses through which the interpreting of the conventional texts and States' obligations would materialize. The long-term and global-wide research serves as undeniable proof of the deprivation of non-derogable human rights that calls for stricter application and enforcement, closer monitoring of and collaboration between States and, obviously, dissemination of information to the entire body of the citizens and grass-roots projects in order to eradicate the underlying causes that exacerbate violence and are woven into our social organization, so tightly that suffocate – not only those under the category of survivors – but the offenders as well.

Changing these patterns is not an easy process, but we cannot afford to keep still and remain in stagnation. All the facets of the issue need to be incorporated in the policies, programmes and campaigns that address the issue, and all the actors need to be actively involved. A holistic approach that bears in mind the different needs of parties is achievable.

The goal of the criminal justice system is ultimately to protect society. In its current iteration and impact this can be challenged. It cannot be disputed that enacting and enforcing appropriate and up-to-date legislation, developing jurisprudence are all a vital component, but the rest of the spectrum needs to be addressed as well. Expanding services to survivors, training all the professionals involved, intervening in the familial and educational setting, eliminating inappropriate content in media and engaging perpetrators in a dialectic of change. Zero-tolerance needs to be at the highest political level as in the microcosms of families, with everyone in between involved.

All this while keeping in scope that all forms of inequalities are aggravating factors that contribute to further victimization of every sidelined group, whether women, LGBTQI+, persons with disabilities, anyone that does not fit to the appropriateness of each given society or context, whoever is in a situation of vulnerability. Poverty, conflict, neo-liberal policies in combination with systematic discrimination hinder the way to equality, stability, development and peace.

The haphazard manner employed to mitigate the problem are not eradicating it, exactly because a multisectoral approach is necessary. A gender-neutral legislation is more and more needed nowadays and at the same time grass-roots projects, in order for the two levels to interact. In the international level, like all legal systems, international law is constructing realities. The specificities it does not address, the lacuna that are not filled by its provisions remain in national jurisdiction and are not subjected to scrutiny.

And as gender-based violence does not just occur, the same regards conflict-related crimes. They are planned, instigated, committed by individuals raised and nurtured in a specific context and in conformity with the impunity offered in such periods. Both are social inventions that have a specific intent and derive from the same distorted views and perceptions of the others, the “other”, the world in its entirety. The unresolved tensions in post-conflict areas and the difficulties in overcoming the barriers and reaching conciliation, as well as the long-term impact of accumulated rage and trauma are well-evident today, and the more accustomed we become to these phenomena, the longest and harshest the battle to uproot them.

But all the aforementioned are conditional upon our willingness to shift away from the wildly competitive formation of our world which enables and condones inequalities and violence.

If only we wouldn't have to come to that...

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