

Violence against Women: Law and its Limits

Violencia contra las mujeres: La ley y sus límites

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Summary: 1. Law and gender justice: can this marriage be saved? 2. Expanding the debate 3. Gender violence reform: features of law barriers. 3.1 Architecture: looking for law in all the wrong places? 3.2. Access to law and the citizenship gap. 3.3. Enforcement: responsibility, capability, and political will 4. Conclusion: from norms to compliance. References

Abstract: This article considers the power and limits of law to address violence against women in semi-liberal, rapidly modernizing, and highly unequal «BRICS and beyond» regimes. While rights optimists laud law's power to establish norms and accountability, feminist critics decry inherent gender bias and inappropriate diffusion. To advance the debate, I argue that the balance will depend on specific features of law: architecture, access, and enforcement. The essay traces the influence of these barriers to gender justice in a series of cases, and suggests that mobilization to transform or supplement these features of law is the most constructive response.

Keywords: law, violence against women, India, South Africa, Mexico, Philippines, access to justice, legal pluralism, impunity

Resumen: Este artículo contempla el poder y los límites de la ley para enfrentar la violencia contra la mujer en los regímenes cuasi-liberal modernizantes tipo BRICS. Mientras los defensores del derecho aprecian el establecimiento de la normatividad y la responsabilidad, las críticas feministas señalan la ley como estructura patriarcal y una difusión global malpensada. Para adelantar el debate, abogo que el balance dependiera en algunos elementos claves del sistema legal: su arquitectura, el acceso a la justicia, y la impunidad. El ensayo sigue la influencia de tales barreras a la justicia en una serie de casos relevantes, y al fin sugiere que la respuesta mejor sería la movilización para transformar o superar estos rasgos normativos.

Palabras claves: derecho, violencia por genero, acceso a la justicia, pluralismo legal, impunidad, India, Sud Africa, Mexico, Filipinas

Can law bring justice for gender violence? Law is the first place the international regime comes to roost at the national level, as well as the fundamental parameter of state power for citizens. Historically, law has been the primary source of leverage for all forms of civil and human rights—but there are many gaps between law and justice. This essay will argue that we can move beyond the debate between the power of human rights legalization and feminist critique of the limits of law by distinguishing the gendered impact of several key features of law—architecture, access, and accountability—filtered by gender regime. It is drawn from a larger study of rights-based responses to violence against women worldwide, which considers the power and limits of law, public policy, mobilization, and norm change (Brysk forthcoming).

The problematic of law for violence against women also differs in different «gender regimes» that we will analyze in tandem with the patriarchal dynamics of different levels of development and political regime types (Connell 2002, Savery 2007, Boesten 2010, Bose 2015). We will compare the relative impact of these features holding cases constant across a single type of semi-liberal transitional gender regime, in the «BRICS and beyond.» These rapidly globalizing middle-income hot-spots of both violence and resistance are marked by a combination of growth, inequality, urbanization, weak or illiberal democracy, and modernizing but contested gender roles and now contain an estimated two-thirds of the world's population.

1. Law and gender justice: can this marriage be saved?

After lagging in the rights regime, law is now a widespread and growing state response to gender violence. Over 120 countries have now adopted some form of legislation on violence against women, with the most comprehensive in the Americas—often linked to the Belem treaty, and the next best level of protection in regime-rich Europe. The power of diffusion is shown by improving levels of legal protection in the most recent adopters who appear to learn from previous experiences (Ortiz-Barreda and Vives-Cases 2013). Richardson and Haglund 2016 show that average global levels of legal protection are slightly improving, but with much higher and earlier protection for stranger rape, followed by domestic violence, then sexual harassment, trailed by marital rape.

What can law do? The struggle against legal impunity for parallel human rights violations involves expanding jurisdiction for international norms, increasing justiciability for the abuse, enhancing governance

and enforcement, and promoting access to justice for vulnerable populations. Human rights treaties and corresponding domestic norms are meaningful because they empower transnational advocacy networks, domestic political elites, and other local groups (Rodriguez-Garavito and Santos 2005; Langer 2007; Slaughter 2005). International human rights instruments and domestic laws alike raise domestic actors' expectations, set priorities, provide strategies and resources for enforcement, and strengthen the bargaining position of rights claimants (Simmons 2009; Rodriguez-Garavito and Santos 2005; Goodale and Engle Merry 2007). As Teitel argues, law promotes mobilizing and expressive functions beyond obedience that transform society (2000). Koskeniemmi describes law as a form of norm change: «Law is a powerful idea» that «transforms individual suffering into an objective wrong that concerns not just the victim, but everyone.» (2007) Moreover, even debates over global norms that are not formally adopted may lead to shifts in rights-protective behavior due to state socialization and civil society mobilization. (Frank et al. 2009)

There is growing evidence that law matters in precisely these ways for addressing gender violence. Speaking specifically to the issue of domestic violence, Bonita Meyersfeld argues that international law is useful both for expressive functions of fostering new norms, and implementing capability that pushes national law to align with international standards. (Meyersfeld 2010) As expressive norms, legal reforms shift sexual violence from an offense against the honor of a group or family to a question of the individual's bodily integrity, helping to constitute women as rights-bearing subjects. For example, in the Philippines, rape is reclassified from a «Crime Against Chastity» to a «Crime Against Persons.» (Frank et al. 2009) In that country, the 2004 domestic violence code that introduces protection orders is now labeled the Anti-Violence Against Women and Their Children. (De Silwa de Alwis and Klugman 2015) A modicum of international pressure can prove a tipping point for reform in ripe environments: the Gambia recently outlawed FGM after a Guardian newspaper awareness campaign sensitized willing leaders to the international norm cascade, high-prevalence persistence of the practice, and health effects (Lyons 2015). As China grappled with drafting domestic violence legislation and coordinating disparate local levels of recognition, a 2008 Bench Book for applied jurisprudence incorporating an international human rights standard is assessed as improving the effectiveness of legal response by providing definitions, standards of evidence, authority for civil protection orders, international laws and research references, financial support

remedies for victims —and later a Supreme People’s Court issuance of 10 family violence «guiding cases.» (Runge 2015)

Measuring impact on the ground, Richards and Haglund find that worldwide «the strength of VAW legal protections has a reliable and positive relationship with the enforcement of those protections.» (2006: 117) In terms of impact on violence itself, evidence is less clear but an initial small survey of 21 countries with solid prevalence data based on Demographic and Health Surveys supports this analysis: for these countries, adopting a domestic violence law lowers the odds of reported abuse 7%, with an additional 2% reduction in each subsequent year (Klugman in De Silwa de Alwis 2015). Even in the most difficult case of sexual violence, global studies show that reform of rape laws is associated with increased reporting —although more in more developed, globalized countries with active women’s movements to monitor abuse. (Frank et al. 2009) Moreover, adoption of stronger legal protections against gender violence are associated with subsequent lower levels of socioeconomic gender inequality, even controlling for other known drivers (Richards and Haglund 2016)

Yet feminist critics argue that law is gendered in disempowering ways, and that even rights-based norms may systematically ignore or respond inappropriately to violations against women. Some feminists dismiss «human rights as men’s rights» —a narrow defense of public sphere freedoms unavailable to most women, who are more affected by non-state abuses and private law (Charlesworth 2002). In much of international human rights law, women’s voices are absent, norms reflect male experience, and women are stereotyped in gender roles (Edwards 2011). In addition to a range of feminist critiques that law is biased toward male lives, models of rationality, institutions, and state interests, some feminists raise additional structural concerns of special salience for women. Legal diffusion may result in dead-letter isomorphism and decoupling of reform from acculturation, legal reform still focuses on prosecution over prevention and empowerment, and modernizing expansion of the rule of law may sacrifice other values of equal concern to some women —such as cultural pluralism and privacy (Pearce 2015).

In line with these critiques, we must note that gendered forms of violence like domestic violence and marital rape are still not even addressed in the national laws in dozens of states. By 2014, according to the World Bank, only 76 countries have domestic violence laws. In March 2013, women’s groups marched in Lebanon to support a proposed law to criminalize domestic violence, against Parliamentary opposition. China drafted its first comprehensive rights-based domestic

violence legislation in November 2014. And international norms are most often decoupled from domestic implementation in this area. An outstanding illustration of gender bias in law that cuts across these critiques is the unique legal requisite that sex crimes establish a standard of consent—an issue that has even undercut accountability in international war crimes trials for the rape of civilian POWs in one Balkan case, when the defense claimed that sex slaves were required to demonstrate coercion and resistance for each episode of abuse.

2. Expanding the debate

There are several approaches that seek to transcend this debate by seeking synthesis, alternatives, or distinctions. According to Mbenge's analysis, part of the problem is the creation of three tiers of law that are gendered in different ways: gender-blind first-generation public sphere human rights treaties, a second wave of anti-discrimination treaties that include gender but also privilege the public sphere, and only recently gender-centered instruments that incorporate non-state violators and recognize the full range of gender-based violence. (Mbenge 2013) While Edwards elucidates feminist critiques that using the existing system reinforces hierarchies, she also fears that insisting only on a new standard may essentialize women as a special category. Thus, she ultimately supports parallel strategies of framing VAW as a form of discrimination and a violation of human rights, especially life and torture, and simultaneously insisting on new special standards to better reflect and empower women's gendered experience. (Edwards 2011)

Others point out that the individualist, adversarial rights model systematically excludes women from access to justice, especially in the global South, and must be «vernacularized» to more responsive social forms beyond the formal legal system (Engle Merry 2006). A related concern is the inappropriate export of U.S. models favoring criminalization, mandatory arrest, justice centers, and separation to contexts where they may be ineffective or even counter-productive in different cultural and structural conditions. They document rule of law initiatives by the American Bar Association in Moldova and China, and the export of the San Diego Family Justice Center model to Canada, England, Jordan, Mexico, and Sweden. According to their reading of the mixed social science research on the effectiveness of these policies, mandatory arrest laws increase arrests but not safety or prosecution, separation and adversarial modes may cut women

off from critical family support in traditional societies, and forcing women to rely on abusive states for protection is questionable in the many countries with histories of dictatorship, police abuse, and coercive reproductive policies. Introduction of criminalization without preventative programs or sufficient state resources can even increase poor women's vulnerability to violence. They advocate for greater attention to community-based legal alternatives, such as the Indian «women's courts» chronicled by Sally Engle Merry that mediate family violence, or a Cambodian Women's Crisis Centre that create contingent contracts for vulnerable women who cannot leave abusive partners that seem to offer leverage beyond the criminal justice system. (Goel and Goodmark 2015)

We will expand these modes of constructivist feminist critique by distinguishing the legal reform requisites for different genres of human rights abuse and different types of gender regimes. Just as campaigns against torture require different legal and complementary strategies than labor rights, campaigns for «women's rights as human rights» will face different agendas for different genres of violation. For violations of freedom such as child marriage, the most salient gap in claiming rights will be the architecture of legal pluralism, while for femicide, norm diffusion is more successful but will often founder on the gap in access to law. While accountability for sexual violence may also require institutionalization and access to justice, state sanction of rape generally carries unique barriers to enforcement ranging from features of law to social attitudes to policing. The architecture of the international regime is also notably distorted for sexual violence, with contradictory structural and temporal relationships between the treatment of rape in international human rights, humanitarian law, criminal codes, family law, transitional justice, customary and religious codes—most visible in the least developed and conflict countries, but latent across all systems.

The prevalence of and linkage between these different genres of violations is most intense in the patriarchal political economies and most tractable in the developed democracies, due to differences in legal modernization, overall institutionalization, and gender equity. In the transitional zone of the «BRICS and beyond,» international norms are simultaneously adopted, contested, and stalled between commitment and compliance. Accountability for sexual violence in transitional zone states has achieved normative recognition due to social mobilization, but usually lacks severely in both access to justice and enforcement. The analysis of strength of legal protections breaks down by region in parallel fashion, with the strongest scores across

all types of abuse for the developed democracies of Europe and North America, the lowest in the patriarchal political economies of Africa (especially North Africa), Asia (concentrated in West Asia), and Oceania, and a mixed picture in transitional Latin America (Richards and Haglund 2016). Moreover, access to law and enforcement for rape are highly influenced everywhere by the locus of abuse, status of victim and perpetrator, and level of complementary social mobilization and transnational pressure.

3. Gender violence reform: features of law barriers

<i>Gender regime</i>	FREEDOM	FEMICIDE	SEXUAL VIOLENCE
PATRIMONIAL	Architecture-high	Enforcement	Access-high
SEMI-LIBERAL	Architecture-mod Access-moderate	Architecture Enforcement-high Access-mod	Architecture-high Access-high Enforcement-high
LIBERAL	Architecture-low	Access-moderate	Enforcement-mod

Therefore, we will examine in turn problems in legal architecture, access, and accountability for the various forms of violence against women. We will trace the inherent challenges in each aspect of law, the salience of this dimension by type of regime and abuse, and the modal problematic of the gap between commitment and compliance in the «BRICS and beyond.» In this view, the most effective approach to gender justice for violence against women will be tailored to salient features of law and society—and relative to the type of violation and gender regime in which they occur.

3.1. *Architecture: looking for law in all the wrong places?*

The overall level and history of policy responsiveness to gender violence can be linked to privatization of the perpetrator, authority, and location of abuse. Thus, states accept the most accountability for inter-state and state-sponsored public sphere violence, such as wartime rape, then private perpetrators in the inter-state public sphere, notably coercive trafficking for sexual exploitation. Human rights campaigns have had more limited success exposing state-

sponsored domestic rape in the public sphere, in counter-insurgencies and dictatorships, but have attained some accountability via the human rights regime. Still less traction is possible under human rights standards and domestic law for chronic abuse and complicity by more legitimate public authorities within democracies, such as police, but sometimes judicial and citizen action avail for «custodial rape.» Further down the scale, domestic private individuals and groups who commit public sexual violence are sanctioned—but often tolerated more than other criminals, especially if they belong to elites or delegated group governance—until they massively violate public order and state interests (such as gangs) or garner significant civil society mobilization for egregious cause célèbre. Still worse, the most privatized violations of domestic violence, marital rape, and child abuse are generally the least attended, may depend on transnational campaigns for recognition, and are often depoliticized as a limited humanitarian concern. The disjuncture between international and domestic, humanitarian and human rights, public and private, national and federal, family and religious law all tend to operate to disadvantage women in gaining accountability for gender violence. This problem is especially acute for patriarchal regimes, but plays a significant role in semi-liberal BRICS and beyond regimes such as India, Argentina, South Africa, and Lebanon for issues of both freedom and femicide.

INDIA

For chronic patterns of sexual violence in a peacetime domestic context, the law responds preferentially to public stranger rape—the stranger the better. The architecture and evolution of rape law in India illustrates the typical domestic pattern of selective state accountability for sexual violence, moving fitfully from public to private and from «special victims» to citizens in the best case of a rights-responsive democracy. The first step in rights-based reform of India's colonial-era rape law was the 1983 Act on Custodial Rape, following several widely publicized cases of police abuse of female prisoners, suspects, and even family members of detainees that sparked public protest. In 1989, as caste-based anti-discrimination measures and civil rights movements grew, Indian law tackled the chronic pattern of caste domination through sexual violence with the Scheduled Castes (Prevention of Atrocities) Act—which mandates primarily economic compensation and is poorly enforced, though amended in 2015. When parallel patterns of inter-ethnic conflict rape were documented in the 2002

Gujarat anti-Muslim riots, investigations and trial for state responsibility led to one conviction and one acquittal for sexual assault—in 2013. Around this time, several scandalous cases of child abuse by criminals were reported in the Indian press along with NGO investigations of orphanages and schools, leading to the 2012 Protection of Children from Sexual Offenses Act, with enforcement focus on stranger attacks and public institutions rather than much more widespread family violence. By February 2013, advocacy by increasingly empowered women workers and their unions led to the Sexual Harassment in the Workplace Act, bringing accountability to one more domain of the public sphere.

Common criminal sexual assault was not addressed until the 2012 fatal gang-rape of a student in Delhi on a mini-bus inspired massive protests by an enraged middle-class and international media coverage. India appointed the blue-ribbon Verma Commission to draft a new rape bill, which significantly raised penalties (but explicitly excluded marital rape). The Delhi rape garnered unprecedented death sentences for the perpetrators, and unusually energetic prosecutions of similar incidents in Mumbai, Kolkata, Hyderabad, and Bihar—all public stranger rapes by gangs. Also in 2012, a female Chief Minister in West Bengal created 65 all-female police stations and 88 permanent fast-track courts as complementary measures. When the sole juvenile convicted in the Delhi rape was released in 2015 after serving a maximum three-year sentence, renewed public protest led to a swift reform of India's law to try juveniles as adults for rape. Meanwhile, a 2014 Supreme Court case made new progress subjecting gender-biased legal pluralism to universal rights when the Court sanctioned delegated tribal officials' order of a village woman's rape as compensation for feuding families. Another step in the progression towards universalism was a December 2015 death sentence of 7 Indian men for the rape-murder of a vulnerable non-citizen: a mentally ill Nepali woman who was receiving treatment in India.

PHILIPPINES

There is a strikingly similar pattern of attention to gender violence, ranging from public to private, in the Philippines. In that country, with higher female participation in the civil service, legislation begins with the 1995 Anti-Sexual Harassment Act, which carries light penalties and exempts peer-level interactions. With the help of women's groups, in 1997 the Philippines shifts to a model Anti-

Rape law, that includes all forms of sexual assault, male victims, and marital rape-but with a forgiveness clause. But lacuna in that law required a 1998 Rape Victims' Act, that included a rape shield rule for the victim's history and mandated the establishment of crisis centers —though not funding. In the early 2000's, under international and labor movement pressure, the Philippines tackled the issues of Mail-Order Brides and Anti-Trafficking, incorporating the UN Protocol on trafficking, penalizing the buyer. Finally, in 2004 after ratifying CEDAW, domestic violence is addressed through the Anti-Domestic Violence Against Women and Their Children Act. That law is patterned on UN models, but founders on a combination of state incapacity, lack of divorce rights, and enshrined pluralism with delegation to village-level Barangay units that are reported to systematically undermine women's protection. («A Deeper Look at Violence Against Women (VAW): The Philippine Case»)

ARGENTINA

Within the state, the architecture of subsidiary legal systems usually disadvantages women —and not just based on traditional cultures or patriarchal religions. In «Legal Inequality and Federalism: Domestic Violence Laws in Argentina,» Smulovitz shows that Argentina's disparate architecture leads to two different federal and 35 provincial laws with different levels of protection between 1992-2009, even compared to less vigorously federal Brazil and Mexico (where four states have no domestic violence law). As a highly modernized emerging economy democracy, Argentina presents a best-case legal scenario: with a 1991 quota for 30% women legislators, 1994 national domestic violence bill, 1996 adherence to the Belem Convention, 2006 ratification of CEDAW, 2008 establishment of a Supreme Court Office on Domestic Violence, and 2009 comprehensive VAW law. Yet within this national context, Argentina's strong federal autonomy leads to important differences in domestic violence laws' qualification of victims, claimants, and injuries, status of mediation, availability of precautionary measures such as restraining orders, mandated enforcement, and funding. She finds an institutional relationship between the strength of state-level laws and the levels of local electoral competition, mobilization of advocates, and date of diffusion from central standards. The impact of these disparities is a mixed outcome; while reporting and claims increase 400% in the decade following the 1994 national Domestic Violence Law, femicides continue to rise from 231 in 2009 to 295 in 2013. (Smulovitz 2015)

Religious and culturally based personal status codes are potentially an even greater barrier to universal citizenship. Disparate definitions of sexual and domestic violence, marriage age and consent, divorce, property rights and claimant status dilute the incorporation of rights norms and lead to inconsistent institutionalization. Feminist critics and human rights advocates decry gender bias and call for dialectical structural reform of the very distinct traditions of Indian religious law, African customary law, and Islamic sharia.

SOUTH AFRICA

Post-apartheid South Africa is parallel to Argentina as a best-case scenario; a modernizing middle-income country with a vigorous democracy and hard-won rights norms. Yet in the mid-2000's, around 20 million South Africans still lived under traditional authority in rural areas, which influences self-determination in marriage and divorce, as well as vulnerability to domestic violence, sexual abuse, and HIV infection (which is 50% more likely in women in abusive relationships). Specific features of customary law that conflict with South Africa's human rights obligations include gender inequity in sexual and marital consent, polygamy, bride-wealth, and widow inheritance. In the aftermath of South Africa's liberation from apartheid and adoption of a path-breaking rights-based Constitution, in 1998 8.8/100,000 female population died at the hands of partners, the highest ever recorded (p. 1656). In a 2006 interview, an African traditional leader still legitimized violence and resistance to rights norms: «In 1994, women have rights, children have rights. And men do not! That made this thing [domestic violence] to become worse.» (Higgins et al 2006: 1680)

Accordingly, African feminists and human rights reformers argue that customary law must be seen as living law, disentangled from colonial calcifications, and adapted to urbanization, inter-ethnic marriage, and international rights standards—including regional norms via SADC and African Constitutions like those of Kenya and South Africa that grant status to international treaties. Moreover, the equally African Constitutions of Malawi and Ghana notably incorporate gender anti-discrimination norms that can serve as an alternative model. Ndulo advocates a move from legislative to judicial and social reform of customary law, including reexamination of indigenous African legal rights traditions and African women's needs, as well as diffusion and exchange of rights-based African jurisprudence. (Ndulo 2011)

INDIA

Similarly, Indian analysts advocate the replacement of religious personal law with a common code of family law, contextualized but rights-based and with an affirmative duty to demonstrate non-discrimination before encoding any culturally differential treatment. In complementary fashion, cultural difference requires legislators and advocates to rethink the interdependence of seemingly neutral and progressive reforms such as the 2005 Domestic Violence Prevention Act with customary law and context. For example, the key protective measure of an abused woman's right to stay in the marital home while pursuing a complaint often founders on customary unequal access to marital property, land, and employment—as well as joint family residence patterns. (Parashar 2008)

LEBANON

A recent report on women's rights in modern yet discriminatory Lebanon emphasizes that the problem is pluralism and the architecture of law as much as the content of any particular religious or cultural code. In that country's agonizing compromise of ethno-religious conflict, there are 15 separate personal status laws, distinguished by denomination. Domestic violence is tossed between civil and religious courts, and claimants experience systematic delays, discrimination in access to economic support, custody, and divorce, and uneven physical protection. A Human Rights Watch survey shows that Evangelical, Sunni, and Maronite courts alike dismiss evidence of abuse; while in Shia and Sunni divorce, women must prove the abuse «exceeds her husband's legal authority to discipline his wife.» Catholics will not annul a marriage for abuse. In response to international and women's movement pressure, in April 2014 Lebanon passed a landmark Law on Protection of Women and Family Members From Domestic Violence—but it is undercut by an exemption for personal status law and does not include marital rape. (Human Rights Watch 2015).

3.2. *Access to law and the citizenship gap*

Moving beyond the problems of legal architecture, for many types of gender violence victims lack access to law. Individuals who lack legal standing due to citizenship or personal status face sociological vulnerability to abuse, unequal protection by state institutions, and

contested standing in the bodies of law that seek to sanction the violation (Brysk and Shafir 2004). This kind of gap has the most influence over freedoms and sexual violence, but also plays a role on more established norms regarding femicide.

Trafficking and gender-based asylum policy are a best-case model for legal reform on gender violence due to preferential framing of sex slavery, interstate salience of controlling borders, and advocacy mobilization in strong host states (Brysk 2013). Yet even humanitarian trafficking and asylum policy controlled by hegemonic states such as the U.S. relegate non-citizens to contingent protection based on frames of worthiness, innocence, and security. (Nayak 2015) Occasional improvements rest on a strong transnational campaign combining international instruments, global civil society, and bridging health frames—with greater traction for citizen subjects.

CITIZENSHIP: PHILIPPINES

The Philippines' experience with gendered human trafficking and associated abuse further illustrates how the lack of legal standing impinges universal rights protection for non-citizens. The transitional zone regime of the Philippines has one of the highest migration rates and female-to-male migration ratios in the world, along with stark contradictions between rising women's education and political participation compared with lagging reproductive rights and domestic violence. Philippine women migrate as sex workers, skilled professionals—and overwhelmingly, in the «maid trade» as domestic workers in Southeast Asia and the Middle East.

Long-standing reports of sexual abuse, imprisonment, battery, and even murder of Philippine domestic workers in the Gulf States led the Philippines to install labor attaches in Philippine consulates overseas and to improve regulation of overseas labor recruiters at home. Under Philippine Law 10022, in 1988 the Philippines instituted a worldwide ban to force the conclusion of bilateral MOUs with receiving countries, in successful cases including model contracts and host country labor protection—but more often resulting in delays, legal limbo, and consequent increase in irregular migration. By 2010, the lack of MOUs or renewed reports of abuse led the Philippines to forbid registered migration to Lebanon, Iraq, Afghanistan, Jordan, and Nigeria. The subsequent 1995 Migrant Workers and Overseas Filipinos Act was inspired by mass public protests over a cause celebre: the Singapore execution of an abused Filipina maid, and the rise of a global advocacy network, Migrante International. Accordingly,

the Act guarantees free access to justice and legal representation for Filipino workers abroad, raises illegal recruitment to a criminal offense, bans deployment of Filipinos to countries without adequate protection, and mandates the placement of a Migrant Workers Resource Center at every Philippine Embassy. A 2009 amendment strengthened the Act, and by 2010 the Philippines expanded it to a Magna Carta of Overseas Migrant Workers. Complementary legislation includes the 2003 Anti-Trafficking Act, expanded in 2012—which includes extraterritorial jurisdiction and free legal assistance. The 2004 Anti-Violence Against Women and Their Children Act may also pertain to some women workers, and the 1990 Mail Order Bride Act was occasionally applied to trafficking or overseas domestic violence cases during the 2000's. Meanwhile at the global level, in 2009 the Philippines launched a campaign for the ILO instrument on decent work for domestic workers that was signed in 2011. By 2012, the Philippines had also passed a national law protecting domestic workers.

But Filipinas were also legally vulnerable as non-citizens in the host country. Kuwait has the highest proportion of domestic workers in the world—660,000/ 2.7 mill pop; over 90% of families have a domestic worker. In 2013, there were 170,000 Filipino workers in Kuwait; 80,000 are domestic workers. Although it took Kuwait almost ten years to negotiate a bilateral agreement to lift the 1988 deployment ban by 1997, an estimated 24,000 Filipinos remained illegally. The majority are not trafficked—but are exploited, denied fundamental freedoms, and may be sexually abused. They are vulnerable as non-citizens, female, non-Arabic speakers, sole support of their families, and dependence on the *kafeel* sponsorship system under which the employer often holds passports and migration debts. Employers and agencies routinely confiscate workers' cell phones. By law, labor inspectors cannot enter private homes, and migrant domestic workers fall under Kuwait's internal security agency rather than the labor ministry. If a worker runs away or reports wage problems or abuse, the employer can petition immigration to cancel her residency, and will also often file a counter-complaint of stealing which traps the worker in the country until the complaint is resolved. Similarly, if a worker is raped, she cannot leave the country until trial; if a domestic worker becomes pregnant, she may be arrested for illegal pregnancy under Kuwait's regressive gender legislation, and some migrant workers have given birth in Kuwaiti prisons. By 2009, Kuwait embassies of labor-sending countries had received over 10,000 complaints;

domestic workers were reported to average 78-100 hours of work/week. Each year, the Philippine embassy typically sheltered 100-200 workers claiming refuge from abuse, and sometimes up to 500. (Protection Project 2013)

Human rights groups and Philippine women's organizations have pushed for reform of the employer visa sponsorship kafala system on the receiving side, which makes overseas workers essentially a ward of their employer and subjects Philippine women to Islamic gender codes. (Begum 2015) In 2005, a Filipina in Kuwait was sentenced to death for murdering her employer. But during her 2007 sentencing, transnational protests by a powerful social movement for overseas workers, *Migrante*, and others in Australia, Canada, Japan, US, Hong Kong, Europe led to an appeal by Philippine President Arroyo —her sentence was commuted to life in prison. The Human Rights Committee of the ICCPR questioned Kuwait on domestic workers' trafficking and passport restrictions, and Kuwait civil society organizations began to issue shadow reports. The Kuwait Social Work Society drafted legislation to abolish the sponsorship system, and the Islamic human rights organization Kabe Human Rights launched an educational campaign with Mohammed's teachings regarding just treatment of laborers. A 2010 joint effort with Human Rights Watch included a school and media campaign called «Put Yourself In Her Shoes.» With this pressure from above and below, in 2013 Kuwait passed anti-trafficking legislation, but not systematic reform for voluntary domestic workers. Accordingly, with continuing abuses, in September 2013 a Kuwait based Filipino rights group, *Mga Oragon sa Kuwait*, presented a petition with 10,000 signatures to the Philippine consul asking for an immediate moratorium on deployment. (Protection Project 2013)

But for abused Filipina workers, distorted access to law at home and abroad has dampened the effect of these measures. A 2013 State Department Human Rights report chronicles incidents of sexual abuse of overseas Filipino workers seeking repatriation by the very Embassy and consulate personnel in the Mideast charged with protecting them. Following this incident, the Philippines Labor Department investigated and recalled 12 officers, then in August filed charges against three overseas labor officials (US DOS «2014 Trafficking in Persons Report: Philippines»). The 2011 ILO Convention on the Rights of Domestic Workers offers path-breaking international recognition but no pathway to enforcement, and has been ratified by only 22 countries —most European and Latin American, including the Philippines but none of the host countries of the Mideast.

IMPUNITY: COLOMBIA

Another facet of the legal gap is impunity: when the perpetrator is either part of or protected by the state charged with enforcing the law. In this case, appropriate law exists, and the victim has standing, but is prevented from accessing her legal rights by force, fear, or complicity. As one measure of transitional justice, Colombia has embarked on a process of truth and reconciliation, which has charted some of the mechanisms of sexual violence during decades of civil war. In a critical decade of land struggles, 1996-2006, the Historical Memory Commission documents strategic use of rape to displace peasant women from contested areas. Even after the first phase of resolution of the conflict began with demobilization of the paramilitaries in 2006, often displaced farmers were unable to reoccupy their lands because paramilitaries retained local control. (Grupo de Memoria Histórica de la Comisión Nacional de Reparación y Reconciliación 2011)

In a related report, prepared as an amicus brief for one of the few trials of paramilitaries to add sexual violence charges to torture and war crimes prosecution, a Colombian legal organization uses three key cases to highlight specific elements of human rights abuse. The Bloque Catatumbo case shows command responsibility for rape by military and paramilitary fighters, while evidence against Commander Hernan Giraldo in the Sierra Nevada de Santa Marta demonstrates that he systematically procured underage girls —often paying off and threatening parents in the zone his forces controlled. Meanwhile, the Rodrigo Tovar case documents sexual violence associated with land takeovers —and displays an unusual level of sexual violence against men in that zone (amicus curiae briefs by Corporacion Humana 2012).

The very limited form of transitional justice available in Colombia is similar to the South African trade of truth for immunity, although sexual violence is supposed to receive particular attention. Even within this regime, of the 39,546 confessions received to date, only 0.24% mention sexual violence, which limits the basis for investigation. In 2008, the 092 ruling of Colombia's Constitutional Court specifically ordered the investigation of these 183 pending cases (later amended to 191) of conflict-related sexual violence. But by 2013, only 11 sentences had been issued; the rest were dropped or delayed. Moreover, current accountability is limited by the Colombian government's labeling of resurgent paramilitaries as private criminal gangs, not subject to the truth, justice, and reparation process. On the war crimes front, in 2010 the Ministry of Defense finally ordered «zero tolerance» for sexual violence. In 2011, the Colombian

government did bring a few legal cases for wartime sex slavery against paramilitaries, and in 2012, secured a rare sentence for the rape and murder of 4 children —although along the way the original judge was murdered. (ABColumbia/ Corporacion Sisma Mujer/ The U.S. Office on Colombia 2013)

For the broader spectrum of sexual violence that does not fall under the war crimes rubric, although much of it is conflict-related, Colombia has enacted domestic legal reforms with some attention to international human rights norms —but systematically fails to implement them. Under the Gender Equality Law of 2008, the state is mandated to provide counseling and legal assistance for victims, and the Attorney General is instructed to refer cases to the Ombudsman. Similarly, the post-conflict Victims and Land Restitution Law of 2011 establishes a Centre for Integral Attention to Victims of Sexual Violence. A watchdog group reports that in January 2012 a new female Attorney General attempted to mobilize these policies, but her replacement in 2013 slowed the referral process back down. Amidst a generalized impunity for crime and human rights abuse, an 80% majority of victims identified by organizations' investigations do not report sexual abuse to police, and in many cases police fail to prosecute —even the Ombudsman drops cases. There are documented paramilitary links to military and police that further discourage prosecution, as well as threats to judges. Thus, Colombia has less than a 2% conviction rate for reported cases of sexual violence. (ABColumbia / Corporacion Sisma Mujer / The U.S. Office on Colombia 2013) The 2013 US State Department Human Rights Report lists over 3,000 new cases of rape, with 63 convictions, along with 116 investigations of sexual violence by security forces (US State Department 2013).

3.3. *Enforcement: responsibility, capability, and political will*

Once law exists, victims have standing, and authorities are potentially accountable, claimants must establish state responsibility for non-state perpetrators, and state capacity for enforcement. The due diligence norm of the state's duty to prevent and protect all citizens equally from private violence has been extended to gender violence in a series of landmark international decisions that have reshaped law and policy in parts of Europe and the Americas —often focused on the transitional semi-liberal regimes, with a focus on femicide. Yet many transitional countries stall

between commitment and compliance to new norms against gender violence —especially sexual violence— due to shortfalls in overall institutionalization and state capacity, and checkered complicity by authorities with abuse of marginalized women —even as some elite women gain some traction. A Global Impunity Index that attempts to measure the structural capacity and functionality of justice, security, and human rights systems in 59 countries grants the lowest ratings to several of the BRICS and beyond liberalizing states: the Philippines is worst, and Mexico is second. The other countries ranked at the bottom include Colombia, Russia, and Turkey. (Le Clercq et al. eds 2015 «Global Impunity Index»)

DUE DILIGENCE

As Edwards explains,

«As early as 1988 a ‘due diligence’ standard of state responsibility for human rights abuses committed by non-state actors was developed by the Inter-American Court of Human Rights» in the Velasquez Rodriguez v. Honduras case. Building on the work of regional human rights instruments (for example Maria Da Penha Maia Fernandes v Brazil I-ACtHR case no. 12-051 2001; MC v Bulgaria ECtHR 2003), in 2005, the Women’s Committee (under the Optional Protocol to the CEDAW) found Hungary to have failed to provide effective protection from domestic violence (AT v Hungary Comm. 2/2003: para. 9.3). Two further domestic violence cases [were brought against Austria in the CEDAW Committee]. . . . confirming domestic violence as an actionable breach where the state fails in its duties of due diligence.» (Edwards 2010: 102-103).

In 2009, the European Court of Human Rights ruled in *Opuz v. Turkey*, when the state ignored four years of a woman’s requests for police protection that resulted in a husband’s murder of the mother-in-law trying to protect her threatened daughter, that the Turkish state failed to protect the right to life, cruel treatment, non-discrimination (Articles 2, 3, 14). This ruling summarized the developing doctrine that the authorities knew or ought to have known of a real and immediate risk to life of an identified individual from the acts of third party and failed to take measures in their power which reasonably avoided the risk. By 2006, the UN Special Rapporteur on Violence Against Women declared this principle of due diligence established as customary international law.

Rashida Manjoo, UN Special Rapporteur on Violence Against Women, points out that due diligence involves both individual

protection of victims and a systemic obligation of states to create structures to protect their citizens. CEDAW General Recommendation No. 12 (1989) highlights the obligation of States to protect women from violence, while Recommendation No. 19 (1992) extends state responsibility for preventing discrimination to private acts of violence. The 2005 Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa also calls on states to enact and enforce laws against violence against women, including the private sphere—though it has not been invoked like the European and Inter-American instruments. (Manjoo 2015)

TURKEY

International norms of due diligence and state responsibility have measurable effects on local law and its enforcement in the BRICS and beyond cases. The 1997 case of *Echr Aydin v Turkey* for state failure to investigate a rape led to a 2004 reform in Turkey. International rulings combined with a mid-2000s campaign on domestic violence by 120 NGOs to reform Turkey's domestic violence laws and require local administrations to provide women's shelters.

MEXICO

In 2009, the Inter-American Human Rights Court's Cotton Field judgment against Mexico for failure to investigate and prosecute the murders of half a dozen among the hundreds who disappear annually along the border recognizes this kind of state responsibility for sexual violence by ostensibly non-state perpetrators, building on a regional jurisprudence of state accountability for violence by paramilitary death squads. The court ordered over a dozen remedies, and along with mandated reparations to victims' families, the Mexican state has passed legislation against «femicide» as gender-based violence, which has increased institutional attention and resources for both borderland murders and increasing domestic violence.

Femicide laws have spread throughout Mexico's Central American neighbors to grapple with a similar phenomenon, with regional diffusion and framing strengthening local response. The special femicide courts Guatemala created in 2010 under a 2008 law do appear to increase accountability, with over 30% conviction and sentencing rates for gender violence—compared to around 10% in Guatemala's regular courts. As a representative of the Guatemala

Prosecutor's Office new Victim Services division explains, «This law drew attention to the problem of violence against women and to the fact that femicide is not simply the female counterpart to homicide; it is the result of unequal power relations and there are specific human rights that aim to help those groups to overcome their conditions of inequality.» (Reynolds 2014)

BRAZIL

National Constitutions that either consciously incorporate or merely mirror the due diligence norm can also have a powerful influence. In Brazil, the 1988 constitution in paragraph 8, article 226 establishes a duty of the state to create mechanisms to avoid violence in the family. This combined with the Inter-American Court ruling on the Maria da Penha case to significantly shift state policy. Brazilian law now criminalizes spousal rape, and Brazil has both an Executive Secretariat for Women's Policies and a Chamber of Deputies' Special Office of Women's Promotion. By 2013, according to the U.S. State Department Human Rights report, President Dilma Rousseff had established a \$114 million program including 27 women's centers; all Brazilian states had established special police stations comprising over 380 stations, 218 referral centers, and 77 women's shelters; and Sao Paulo created three new special courts for domestic violence with 35,959 cases. (State Department 2013)

In Brazil, the Ministry of Justice sponsors annual summits with representatives of state superior tribunals, «Jornadas Lei Maria da Penha» as well as annual reports. There is a National Forum of Judges Specialized in Domestic Violence and dozens of special judicial divisions for domestic violence. However, there are insufficient divisions, and they are not proportional to the population of each state; most states have only one judge. There have been over 600,000 cases over the five years since passage of the law, but only 57% resolved. The level of judicial coverage and case clearance varies widely by region; the poverty-stricken and crime-ridden Northeast is the worst—but there are also problems in more prosperous but poorly governed Santa Catarina and Sao Paulo. Their annual report for 2010 shows 4,465 homicides of women in 2010—41% killed by partners (Waiselfisz 2012). A 2011 5th Anniversary report by the National Council of Justice records over 331,000 prosecutions for domestic violence and 110,000 judgments, with over 2 million calls to Service Center for Women (UN Women «Maria da Penha Law» 2016). Surveys show that since the law, awareness has increased, but so has violence. Reporting

has increased, to both regular and special police; nowadays those who don't report do so mainly from fear and economic dependency —not shame or lack of knowledge (Avon Institute 2011; Data Popular and Instituto Patricia Galvao n.d.).

Similar Constitutional standards and local jurisprudence have begun to disseminate. The 1994 South African Constitution mandates gender equality and the High Court cases of *Baloyi* and *Carmichele* establish state duties to protect women from domestic violence. Similarly, Tunisia's 2014 Constitution in Article 46 mandates state measures to combat violence against women. But in these newer cases, and even some of the established Latin American contexts, there is a gap in enforcement that blends capability and political will. A 2008 Amnesty International report assessing Venezuela's 2007 rights-based domestic violence law notes this gap, «The Law Is There Let's Use It.» While the law mandates state response to private violence, and even requires an awareness campaign (supported by the UN Population Fund), Venezuela provides only three women's shelters nationwide, little economic support, low police resources and training, and has lagged in setting up a dedicated public prosecutor and special courts (Amnesty International 2008).

THE ENFORCEMENT GAP: SOUTH AFRICA

South Africa's attempts to grapple with epidemic levels of sexual assault display precisely this lack of capacity and will for enforcement. There have been attempts to improve the sexual violence law itself since the 1990's. In 1992, public outrage over two horrific cases in the Western Cape led to the eventual creation of a Task Group and Sexual Offences Courts, which grew from 1999 to 2005 but were then rescinded for funding reasons. In 1993, South Africa passed the Prevention of Family Violence Act —which notably includes marital rape, but has been under-utilized. A 1997 report of the South African Law Commission that emphasized the growing practice of child rape by HIV-positive men who believed it would cure them of the disease produced the rights-based 2007 Sexual Offences Act, covering both children and adults. This legislation includes a broadened definition of sexual violence, a clear standard of consent, compulsory testing of offenders and a right to HIV post-exposure treatment for victims, increased penalties for sex trafficking, mandated reporting of child sex abuse, and a national register for sex offenders. (Vetten 2011)

However, the law itself in South Africa does not comprehend extreme forms of family exploitation, economic dependency and

structurally coerced prostitution, and social barriers to the legal system for shantytown dwellers (Mills 2010). The bill which finally passed in 2007 ignored civil society submissions on witness protection and support services dating from 2002, and virtually ignored prevention, enforcement, or protection policies. (Artz and Smythe, eds. 2008)

Policing in South Africa is overwhelmed, under-trained, and especially ill-equipped to deal with sexual violence. While the numbers and budgets of police are surprisingly comparable to international norms, distorted structures inherited from apartheid and a generation of poor education, urban crisis, and corruption have severely hampered police investigation capacities and community orientation. South African police have no statutory duty to prosecute, and are reported to discourage reporting of sexual violence to meet government standards, drop cases in return for payment from accused perpetrators, blame victims, and botch forensic evidence. There are also «supply-side» problems in prosecution: victims may be socially pressured or economically coerced to drop charges, poor victims are difficult to trace in shantytown conditions, and child victims may be represented by negligent or even complicit guardians (Smythe and Waterhouse 2008)

Because of low conviction rates, specialized family violence, child protection and sexual offences units were closed in 2006, affecting reporting rates and confidence in the police (Mkhwanazi 2006). The units were re-established in 2011—but at least 12 South African Police Service members in the Western Cape Province were themselves arrested on charges of rape in 2012. («W.C. Police Rape Stats in Highest in S.A.» 2009). Hence, in South Africa only 3.2% of adult and 4% of child rapes reported result in conviction (Jewkes 2009). Along with political denial and the cultural stigma of reporting, there is evidence that police under-register and prosecute in order to reduce rape statistics, especially in 2009 prior to hosting the 2010 World Cup (p. 172) (Vetten 2011). An Inter-Sectoral Commission on Management of Sex Offenders—including the Departments of Justice, Corrections, Social Development, Health, Police, and Prosecutions— developed a National Policy Framework, annual reporting, and training for police and prosecutors (2005 and additional in 2008). These efforts, along with a series of policy attempts to improve law enforcement have foundered on case attrition, poor police investigations and record-keeping, corruption, overload and insufficient resources, difficulty maintaining contact with shantytown witnesses, and discrimination against victims by

police and prosecutors. Thus, it is estimated that 68% of cases are never brought to trial (p. 181). (Vetten 2011)

INDIA

In similar fashion in India, enforcement is undercut by impunity, corruption, or even retaliation. After a college student in West Bengal was raped and killed on June 7, 2013, local government officials allegedly offered the family compensation to drop the case. After revelation and public criticism, eight men were arrested but the case remained incomplete. Even worse, when a 16-year old in Bihar was gang-raped on Oct. 26, 2013, she was assaulted again after submitting a complaint at the police station. While awaiting trial, threats by the accused continued in November. On Dec. 23rd, the victim's house was set on fire, and she died on Dec. 31. Two men accused in the fire were finally arrested. {all from US State Dept. 2013} In 2016 in Haryana, a Dalit woman who had been assaulted in 2013 by five men and brought a case against them was kidnapped and brutalized by the same group, who had been pressing her family to drop the case. Police have not yet made arrests despite community protests. (BBC, «India outrage after gang rape victim assaulted by same men» 2016)

Moving from sexual assault to domestic violence in India, slow but evolving legislation on dowry deaths is similarly systematically unenforced. After decades of severely underutilized prohibition of both dowry and family harassment, in 1986 India amended both the penal and procedural code. The new legislation specifically defines dowry-motivated death including suspicious suicide, shifts the presumption towards the husband and his family if there is a history of harassment, and mandates an automatic postmortem of suicides within seven years of marriage. While this law has clearly increased reporting exponentially of both suspicious death and domestic violence, conviction rates remain only 16% for domestic violence and 32% for dowry-related crimes. While activists have used the law to educate and mobilize, they criticize the location of a wider pattern of subjugation in dowry—ignoring the larger structures that make Indian women vulnerable to multiple forms of violence. Moreover, they show that police are bribed or complicit with abusive families to ignore dowry deaths. Still worse, in 2014 the Indian Supreme Court narrowed the arguably broad standard to require a magistrate's warrant rather than police arrests—responding to the potential threat of corrupt police to the rights of the accused, but not to victims—or their survivors. (Goel 2015)

MEXICO

Amidst widespread impunity for all forms of crime and human rights abuse in Mexico, sexual violence is particularly resistant to enforcement. For ordinary victims seeking justice, corruption and retaliation are common. In 2016, eleven members of the same family in Puebla were massacred by the rapist they had prosecuted nine years before. (BBC, «Massacre of 11 people linked to rapist's grudge»). In Veracruz, where the Zeta cartel reigns and journalists vanish regularly, an elite student who was assaulted by four of her well-connected wealthy classmates went public after prosecutors buried her complaint. Street protests on her behalf followed her father's posting of a secret video in which he extracted a confession from the perpetrators, who appear to have fled the country as the case delayed. (Krauze 2016)

RESPONSES

Nevertheless, in some sectors of some transitional countries, there are complementary or alternative mechanisms initiated by civil society to close the gaps in access and enforcement chronicled above. Women's movements hold independent tribunals to investigate and pressure prosecution on war crimes and femicide, that may translate into new international instruments or state defensive measures—notably on Japanese Comfort Women and Mexican femicide. Anthropologists document reworking of traditional social courts by women's groups to «vernacularize» justice for domestic violence in India, Rwanda, and beyond. Now, as long-standing state incapacity combines with neo-liberal budget cuts, some newly mobilized women's groups move beyond advocating and monitoring legal reform to providing legal services—and even substituting for some functions of state enforcement.

INDIA

India's 2005 Protection of Women from Domestic Violence Act defines violence comprehensively to include physical, sexual, verbal, and economic abuse, creates Protection Officers and protection orders, recognizes NGOs as service providers, establishes a right to private legal representation, mandates a hearing within three days, equalizes rights to residence and child custody, and grants positive entitlements of interim monetary relief. The Delhi-based PWDVA law

group helped to draft the legislation. But by 2011 only three states had appointed Protection Officers, they were severely underfunded, most Prosecutors still filed cases under the old law, and there was a severe backlog. Corrupt local authorities regularly refused to enforce protection orders, and the declared right of abused women to maintain residence in a shared household contradicted local realities. Moreover, during fieldwork in West Bengal, Ghosh found that local social norms denied support to women where violence was perceived as a response to failure in a reproductive role: in one case, an AIDS widow and in another, a women with no male children. (Ghosh and Choudhuri 2011).

A recent study of creative civil society response documents and locates the success and failure of the legislation. On the positive side, the legal opening increased claims from 2002-49,237 to 2011-99,135. But claims take an average of ten years to process, and in 2011 the backlog was comprised by 32 million cases. Some clear indicators that state capacity is a significant barrier to enforcement are budget and policing, like in South Africa. By 2012, only 14 of India's 33 states had been allocated a budget under the Domestic Violence Law; and India has a notably low ratio of police coverage per population and poor distribution for vulnerable populations (also see «Police to People Ratio»; Roychowdhury 2015)

In response, women's groups stepped in to substitute for the lagging state in some areas, training caseworkers, providing legal aid, and organizing victims with pending cases for support and social services. And in a few areas with strong grassroots movements and highly decentralized and underfunded administrations, such as West Bengal, women's organizations took on or trained their members to assume law enforcement functions. Women's organizations and even individual victims end up writing reports for overwhelmed government protection officers, gathering evidence and witnesses for understaffed police and prosecutors, enforcing protection orders through informal collective action, and substituting for police to intervene in abuse or supervise separations. Contrary to some feminist critiques that domestic violence regimes may position women as victims, the informalization of justice in this case seems to move women from victim to savior roles—and many survivors of abuse move on to status as rescuers of current victims through the organizations. However, women's solidarity activists are sometimes attacked for their intervention by local patriarchal elites, and often cannot secure police protection. (Roychowdhury 2015)

4. Conclusion: from norms to compliance

Law is necessary but not sufficient to bring justice for gender violence. As human rights scholars demonstrate, institutionalization of rights norms requires complementary mechanisms of transnational pressure, social mobilization, and building state capacity. Feminist critics add an analysis of uniquely gendered gaps between commitment and compliance—yet the law is not ineluctably gender biased as claimed by some feminist pessimists. Systematic analysis of the gendered legal gap locates the barriers in distorted architecture, access, and accountability. Moreover, we can constructively distinguish the relative salience of different aspects of law for different types of gender regimes and different syndromes of violations.

The legal barriers outlined here are systematic and extensive, but they are evolving and amenable to reform. Transnational mobilization has expanded claims for different types of violence beyond interstate and humanitarian law, generated new norms for diffusion such as due diligence, and fostered challenges to inequitable legal pluralism. Meanwhile, transitional justice increasingly provides new opportunities for accountability—when a regime is internationally supervised and/or a power transition has been thoroughly consolidated. The human rights regime itself continues to expand awareness and propose avenues of access for the gendered citizenship gap, increasingly attending to women across borders or with legal personality subsumed in marriage. Doctrines of state accountability are trickling down from international norms to changes in state policy through direct instantiation, regional jurisprudence, and state Constitutions. In tandem, growing gender equity and civic mobilization in emerging democracies presses states for citizen security across the public and private sphere alike that leads to legal reform and increased enforcement for both sexual and domestic violence.

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