

Parties shall take the necessary measures to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men.

Istanbul Convention 2011, Article 12

Addressing the socio-economic and cultural barriers to equal access to justice for women victims of violence¹

By Rosa Logar, WAVE network and Domestic Abuse Intervention Center Vienna

Before trying to answer the question of what socio-economic and cultural barriers women victims of violence have to overcome when accessing the justice system, let me ask another question: Why should women survivors of violence seek access to justice? Or—to make it more personal (since it is not only “the other woman” who experiences violence, it can be every woman, it can be us) – why should we as survivors turn to the justice system? What can we gain from it? Will justice be done to us in the justice system? Will we be believed, or blamed or even stigmatized? Will we, as so many women express to women’s support services, feel as if WE were the accused, not the actual perpetrator? As if WE have to prove the violence, not the state? What can we gain from the justice system in our countries as victims of domestic violence or rape? I remember I was shocked when I watched a German talk show in 2010 hosted by Anne Will on the subject of a rape case that had attracted widespread public attention involving a TV presenter who had been reported for rape by his ex-girlfriend. The show was broadcast while the trial was going on, and one of the guests, the retired Attorney General Hansjürgen Karge, stated that, if in doubt, he would NOT advise his daughter to report a rape to the police. (The accused man was acquitted later; according to a European study, on average only 14% of the reported rape cases end in a conviction – see UN Women 2011). Many women survivors of rape in Germany do what the retired Attorney General advises them to do if in doubt (i.e., if unsure that they can “prove” the violence or that they will be believed) – they do not report. According to a representative study on violence against women, only 8% of women victims of rape go to the police (Federal Ministry for Family Affairs, Senior Citizens, Women and Youth BMFSF 2004).

What would you advise your daughter, sister, niece, mother, best friend or colleague to do if she had suffered rape? What would you do yourself? Would you report? Would you report if the perpetrator was your husband, your boyfriend, your boss whom you went out with but did not want to have sex with? How would you try to convince a woman who asks you for advice to report to the police?

Low reporting rates are also common in the case of other forms of violence against women, such as domestic violence, and the phenomenon points towards numerous barriers for women victims of violence to access to the justice system. Low conviction rates show that, even if women do overcome the barriers to reporting, justice for the victim is often not the outcome (see for instance Lovett/Kelly 2009).

The tendency to mistrust women survivors of violence in our justice systems is a matter of concern, as is the lack of efforts by the justice system to investigate, prosecute and sanction acts of violence against women and protect the victims. That perpetrators of violence against women are rarely held

¹ In this article, the definition of the Council of Europe Convention on Preventing and Combating **Violence against Women (Istanbul Convention)** as “all forms of gender-based violence” is applied; this includes domestic violence against women and their children.

accountable for their acts constitutes a serious problem to our democracies and to security and peace for women in our societies. It abets the criminal in his offences and condones violence against women. I am not arguing that this is a deliberate act, nor that anyone in the justice system willfully supports perpetrators of violence; this would be tantamount to corruption and an abuse of power in the justice system. But even if it is not intentional, if it is “just happening”, it is important to examine the factors behind the low reporting, high attrition and low conviction rate in this area of crime and to change them.

Important measures to guarantee adequate protection according to the principle of due diligence (Istanbul Convention 2011, Article 5) can help to remove barriers to the access of survivors of violence to justice). In recent years, the UN Committee on the Elimination of all Forms of Discrimination against Women (CEDAW) as well as the European Court of Human Rights (ECHR) have applied the due diligence principle to several cases of violence against women and domestic violence and ruled that state authorities have a positive obligation to protect women victims of violence (see for instance CEDAW Gökce and Yilderim v. Austria, ECHR Opuz vs Turkey 2009, Tomasic v. Croatia 2009, in: Logar 2010; Council of Europe 2013).

Blaming the victim – a main barrier for women victims of violence in accessing the justice system

Unfortunately, blaming the victim is still a widespread phenomenon in our society, when it comes to violence against women. It is so deeply rooted that we do not even recognize the severe nature of this discriminatory, stigmatizing and inhumane attitude. “She was wearing a miniskirt, no wonder she provoked him” or “She was wearing tight jeans, it cannot have been rape” or “She never had the meal ready, no wonder he lost his cool” are stereotypes which are often reproduced unthinkingly. We hardly call it hate crime, misogyny or sexism (even though we talk of xenophobia, racism, anti-Semitism or homophobia, when it comes to other groups); it rarely elicits an outcry, even if victim-blaming is practised by representatives of the justice system or other authorities, and hardly ever is anybody held accountable for blaming a victim.

Why? What is the reason for the widespread acceptance of violence against women? It is a sign that violence against women is still “a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women” (Istanbul Convention 2011, Preamble). To address and eliminate victim-blaming as a form of discrimination against women in all areas of society, including in institutions, should be one of the main goals in removing barriers to justice for women victims of violence.

Video-clip against victim-blaming from young women from India: Young artists in India produced and posted on line a satirical video entitled “Rape? It’s your fault”, a parody of the victim-blaming culture. It uses patriarchal explanations of rape, in a clever and funny way, to raise awareness about the harmful and sexist attitudes.²

This article does not deal with “classic” legal barriers, such as missing legal aid or court fees women survivors of violence might find it hard to pay. Of course, it is important to identify such barriers as well (see Council of Europe 2013). The focus of my contribution is on socio-economic and cultural barriers which often prevent women from even addressing the justice system. Social barriers are often related solely to individual barriers such as lack of language skills. It seems important to avoid individualization, to identify barriers at all levels (individual/family, institutional, society as a whole) and to regard the intersections between them. Barriers are different in nature – some such as victim-blaming or gender-stereotyping are attitudes deeply rooted in society, which need long-term measures for awareness-raising and change. Other barriers, such as difficulties in accessing a

² Watch the video clip “It’s your fault” on You Tube: http://www.youtube.com/watch?v=8hCONg_ajpY

women's shelter because of a disability or because of a lack of means of transport are, theoretically, easier to address – they can be changed if the necessary resources are provided. Why the necessary resources are not always there when it comes to the prevention of VAW is a political question. In the arena of politics, where men still dominate, it is often men's interests and rights that decide where the money that has been generated by men *and* women is spent. Power and dominance decide whether tax money will be spent for weapons, the army or sports events such as the Olympic Games, or whether it will be invested in the social area, in care for the elderly, for children or in safety measures for women victims of violence.

As stated, barriers should not be seen as reflecting shortcomings of victims or as a primarily individual problem; often barriers are shortcomings in our societies which hinder women victims of violence and their children from accessing justice. We also have to be aware that the violence women experience itself is a barrier to justice, since it is aimed at hindering victims from seeking help and intimidating them. Threats by perpetrators such as "You'll be sorry if you go to the police", "I'll kill you" or "I'll take away the children and you'll never see them again" are very common. I will start with this issue as a main barrier.

Violence as a barrier (fear)

Individual and family level: Violence or fear of violence is one of the main barriers preventing women victims of violence from leaving the aggressor or taking legal action against him. And their fear is not unfounded – research shows that taking steps towards separation is one of the main risk factors for the escalation of violence, and the majority of femicides or attempted femicides are committed when women try to leave their partner (see WAVE 2012). To report to the police or to testify in court might result in violent acts of retaliation in the case of dangerous perpetrators. Victims often feel the danger; they know the perpetrator well and they hesitate to do anything that could upset him. Such defensive strategies are often successful, and the victims themselves are the ones who prevent violence; they rarely get praised for it, but are rather accused of subordination; this is another form of victim-blaming and stereotyping. Victims who do not "fight back" are easily despised and stigmatized (as co-dependent, subservient ...). If they fight back too hard, they are monsters. There is little room for error to get it right as a woman victim of violence.

Institutional level: On the institutional level, the dynamics and danger of partner and domestic violence are often not properly understood. Victims are "advised" to leave the partner without safety planning measures; law enforcement and justice personnel send application letters about divorce to violent partners while the victims are still living with them, without thinking that this could cause harm. Even if women survivors of violence dare to report and take legal steps, they are often victimized repeatedly, because the authorities do not take the violence seriously; they tend to believe that it's the first time, and their interventions are not adequate to put an end to the violent behaviour. Moreover, agencies are hardly held to account when it comes to repeat violence; they cover themselves by propagating the myth that "the violence could not have been prevented", even if they did little or nothing to prevent further violence, but dropped the case or acquitted the aggressor (see European Court of Human Rights cases referred to earlier).

Level of society: Also at the societal level there is little understanding of the danger and dynamics of violence, and women are easily blamed, as demonstrated. This reinforces their feeling of being trapped in a situation that receives little understanding, while everybody seems to claim the right to judge the victim. This enormously weakens us as victims and plays into the hands of the perpetrator.

Measures to address the barriers:

- Increase the knowledge about the phenomenon and dynamics of violence against women and their children in the basic training and continuing education of all relevant professions

(police, prosecutors, judges and other relevant personnel in the justice system, social and health workers, psychologists, sociologists, teachers, etc.).

- Establish clear guidelines on how to effectively support women without putting them at greater risk and ensure their effective implementation in all institutions and organizations dealing with women victims of violence and their children; implement policies on continuous risk assessment and safety planning
- Apply a safety and victim centered approach in multi-agency work. (see WAVE 2012).

Harmful attitudes as barriers

On the individual/family level, women victims of violence often experience victim-blaming by the violent partner. It is one of the forms of psychological violence and aims at undermining the self-esteem of the victim. The victim is not only violated, she is also made responsible for the violence: “You deserved it, you provoked me” is the attitude here. If we hear this accusation often as victims and our self esteem is weakened, we actually start to believe that the violence is our fault; if only we would be or act differently, we would not be abused. Survivors also experience victim-blaming by the family and among their friends, which further weakens them and makes it difficult to stand up against the injustice.

Institutional level: Victim-blaming is unfortunately still widespread among members of institutions who deal with survivors of violence. Behind it, we often find a lack of awareness and lack of knowledge about the phenomenon of violence in relationships and domestic violence. Victim-blaming is not always so up-front that is it easily recognizable. Questions like: Why did you go out with him? Why did you not just leave him? Might sound normal, but if we are a survivor of violence, these questions will make us feel guilty and we will feel blamed.

Level of society: Victim-blaming is, as stated, widespread in society as a whole, and we encounter such attitudes easily as survivors of violence. Needless to say, a violent partner feels strengthened by the attitude of victim-blaming; it will reassure him that he is in the right and that his wife/girlfriend is to blame for the violence. Victim-blaming, whether we want it or not, whether we intend it or not, condones the violence and nurtures violent behaviour. It contributes to violence against women and it is a form of discrimination and violence, as stated.

Other harmful attitudes:

- Gender stereotypes and gender bias in institutions and in society as a whole;
- Minimization and trivialization of violence against women and their children;
- Tolerance for violence against women and their children;
- Ignorance of the problem;
- Lack of moral courage to intervene and to support victims.

Measures to address the barriers:

- Address the above-mentioned harmful attitudes, especially also the problem of victim-blaming, in widespread public campaigns;
- Address them in the basic training and continuing education of all relevant professions (police, prosecutors, judges and other relevant personnel in the justice system, social and health workers, psychologists, sociologists, teachers, etc.);
- Build and strengthen the trust of women in the justice system by measures such as creating special units, increasing the number of women in the field, etc. (see Council of Europe 2013; Un Women 2010, 2011).

Discrimination against migrant women and racist attitudes as barrier

Migrant and minority ethnic women and their children often face additional barriers to the access to justice. Discriminatory or even racist attitudes have not yet been eradicated from our societies and also still exist in institutions. Undocumented migrant women and their children belong to an especially vulnerable group. They often do not even dare to seek help, to call the police or to turn to the justice system for fear of exclusion or deportation. But also these groups of victims have fundamental rights to life, security and health which have to be respected and guaranteed (see European Agency for Fundamental Rights FRA 2011).

Measures:

- Promote the access of minority ethnic women and migrant women victims of violence, including undocumented women and their children, to services and the justice system;
- Provide culturally sensitive services and train and employ professionals with diverse backgrounds in institutions and support services;
- Remove discriminatory practices which hamper the access of victims to help and support, such as the rule of no recourse to public funds for migrants.
(see PICUM 2012).

Other socio-economic and cultural barriers

In the following more social-economic and cultural barriers and measures to address them are described shortly. The list does not claim to be exhaustive:

Social barriers

- *Lack of information about the legal system and rights to be protected*

Measures: Regular and widespread information campaigns by governments (using the mass media and new information technologies) to inform victims about their rights and the possibility of obtaining support.

- *Lack of support by the family and friends*

Measures: Address families and friends as target groups in information and awareness campaigns.

- *Barriers affecting women and children with disabilities*

Measures: Remove barriers; work with civil society organizations supporting women and children with disabilities.

- *Lack of adequate help and legal protection (missing or inadequate laws or problems in implementation)*

Measures: Evaluate the functioning of the support and protection system and improve the measures implementing the provisions in the Istanbul Convention.

- *Tendency of non-interference of institutions*

In the area of violence against women and children, there is still a tendency for institutions not to interfere (often rooted in the belief that violence against women is a “private matter” and that a man can “do with his wife and children whatever he pleases”). This allows perpetrators to continue the violent behaviour without encountering sanctions and promotes – even if unintentionally – male violence against women and their children.

- *Lack of women's support services and lack of access to services*

Measures: Implement the Council of Europe provisions on specialized women's support services in adequate numbers (e.g., minimum standard of one place per 10,000 inhabitants in a women's shelter); remove all barriers impeding the access of women and their children to shelters; guarantee the right also for undocumented women and children to enjoy protection and to access shelters and justice.

- *Lack of support in the community*

Measures to address these barriers: Promote community work; mainstream the issue of prevention of violence against women and children into all forms of community work.

Economic barriers

- *Lack of means of communication and lack of transport*

Sometimes women victims of violence even lack the means to seek help or to attend a court. They have no phone and/or no means of transport or money to pay for it.

Measures: Women victims of violence and their children must be provided with resources enabling them to access help and justice (free phones, free transport).

- *Poverty of women victims of violence and their children*

Measures: Strengthen measures to combat poverty of women and children; provide access to justice free of charge.

- *Lack of alternatives to violence*

Women and children are often forced to stay in a violent situation because of lack of alternatives.

Measures: Specific housing programs to enable women and children victims of violence to leave the violent partner; programs to promote women's economic independence.

- *Language and cultural barriers*

Measures: Provide support in the mother tongue and culturally sensitive support to victims.

Conclusions

There are still numerous and varied barriers women victims of violence and their children face when seeking to access justice. They should be comprehensively addressed in state-wide effective, comprehensive and co-ordinated policies (see Council of Europe 2011), and measures to address them including resources needed should be part of every national action plan to prevent violence against women and their children. Policies need to put the "rights of victims at the centre" of all measures and to "offer a holistic response to violence against women" (Article 7). This implies that any discriminatory, biased, judgemental, blaming, stigmatizing, minimizing or trivializing attitude towards women survivors of violence needs to be eliminated at all levels.

At the end of my article let me address the often heard argument of governments that they do not have the necessary resources to prevent violence against women and their children. It raises the question: Can we afford it? The answer can only be: We have to afford it! Compared to the costs of violence against women, which in Europe amounts to an estimated 16 billion Euros annually³, governments' budgets for the prevention of violence against women and their children are meagre. I call upon governments to publish information about the extent of state funding for women's support

³ Psytel, 2006 Daphne Project on the cost of domestic violence in Europe.

services and welcome Prof. Sylvia Walby's suggestion that an indicator of the extent of state funding of women's support services should be developed.⁴

Regarding the complained that the economic crisis does not allow for adequate funding of services, I want to recall the Beijing Platform for Action, Strategic objective E.2., which reads that states should "Undertake to explore new ways of generating new public and private financial resources, inter alia, through the appropriate reduction of excessive military expenditures, including global military expenditures, trade in arms and investment for arms production and acquisition, taking into consideration national security requirements, so as to permit the possible allocation of additional funds for social and economic development, in particular for the advancement of women."

⁴ Interview conducted by EIGE: <http://www.eige.europa.eu/content/document/violence-against-women-victim-support-interview-with-sylvia-walby> .

References

- Council of Europe (2008): Task Force to Combat Violence against Women, Including Domestic Violence - Final Activity Report, Strasbourg
[http://www.coe.int/t/dghl/standardsetting/convention-violence/CAHVIO/EG-TFV\(2008\)6_complete%20text.pdf](http://www.coe.int/t/dghl/standardsetting/convention-violence/CAHVIO/EG-TFV(2008)6_complete%20text.pdf)
- Council of Europe (2011): Convention on preventing and combating violence against women and domestic violence, Istanbul
<http://www.coe.int/t/dghl/standardsetting/convention-violence/convention/Convention%20210%20English.pdf> 25 November 2013
- Council of Europe/Gender Equality Commission (GEC) (2013): Feasibility Study Equal Access of Women to Justice, Strasbourg
http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/GEC_2013_1_abridged_REV%20title.pdf 30 November 2013
- European Court of Human Rights (2013): Factsheet Violence against Women, Press Unit, July 2013, Strasbourg download. http://www.echr.coe.int/Documents/FS_Violence_Woman_ENG.pdf, 30 November 2013
- European Agency for Fundamental Rights FRA (2011): Fundamental rights of migrants in an irregular situation in the European Union, Vienna
<http://fra.europa.eu/en/publication/2012/fundamental-rights-migrants-irregular-situation-european-union>, 30 November 2013
- Federal Ministry for Family Affairs, Senior Citizens, Women and Youth BMFSF (2004): Health, Well-Being and Personal Safety of Women in Germany. A Representative Study of Violence against Women in Germany- Summary of the central research results, Berlin
- Lovett, Jo/Kelly, Liz (2009): Different systems, similar outcomes? Tracking attrition in reported rape cases in eleven European countries, London
http://www.cwasu.org/displayAuthorsPublications.asp?author_key=1, 25 November 2013
- Logar, Rosa (2010): CEDAW as an instrument to address life-threatening gaps in the protection of women from gender-based violence. The Austrian experience, Vienna download:
<http://www.interventionsstelle-wien.at/start.asp?ID=476&b=78> 30 January 2014
- PICUM (Platform for International Cooperation on Undocumented Migrants) (2012): Strategies to End Double Violence Against Undocumented Women. Protecting Rights and Ensuring Justice, Brussels
<http://picum.org/en/publications/reports/> 06 August 2012
- UN Women (2011): Progress of the Women's World 2011-2012 - Pursuit of Justice, New York
<http://progress.unwomen.org/pdfs/EN-Report-Progress.pdf> 30 November 2013
- UN Women (2012): Handbook for Legislation on Violence against Women, New York
Download in English, French, Spanish, Russian, Arabic and Chinese:
<http://www.unwomen.org/en/digital-library/publications/2012/12/handbook-for-legislation-on-violence-against-women> , 30 November 2013
- WAVE (2012): Capacity Building in Risk Assessment and Safety Management to Protect High Risk Victims, Learning material produced within the PROTECT II project (EU Daphne project), Vienna
Gratis download in German, Spanish, French, English, Bulgarian, Czech, Italian, Estonian, Polish, Swedish, Slovak from the WAVE website: <http://wave-network.org/content/protect-ii-learning-resource-capacity-building-risk-assessment-and-safety-management-protect>, 30 November 2013