



Photo Credit: Women demonstrate for the end of rape culture in Goiânia, Brazil: Angela Macario, Shutterstock, May 2016

Why the Rule of Law Is Not Enough

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In May 2021 the Brazilian Federal Register announced that all people seeking services for relationship violence would receive a risk assessment.¹

The use of risk assessments—tools designed to predict reassault or femicide in cases of domestic or intimate partner violence (IPV)—is an important step in advancing the implementation of federal violence against women (VAW) laws. Such practices in Brazil are built on the existing 2006 Maria da Penha Law, and 2015 anti-femicide legislation that criminalized domestic violence and gender-based killing.² Yet, while the rule of law is necessary, it is insufficient to ensure a world free from relationship violence.

According to the World Bank, at least 155 countries have passed laws on domestic violence,³ yet one in three women experience physical, sexual, or psychological violence during their lifetimes.⁴ While these laws may be well-intentioned, their consequences may be unexpected. In a 2014 study conducted in Nicaragua, women believed that the passage of Law 779, a progressive anti-femicide law passed in 2012, actually led to an increase in femicide;⁵ this was in part because it also contained new carceral punishments for domestic violence. Knowing that they would face carceral consequences for domestic violence as well as femicide, some men may have felt disincentivized to limit their abusive behavior toward their partner—and thus committed even more ex-

About the Series

Gender-based violence (GBV) affects one in three women worldwide, making it an urgent and important policy challenge. Many countries around the world have passed laws intended to protect women from violence, yet violence persists. Over the past year, the COVID-19 pandemic has raised awareness of the perils women face from gender-based violence—what has come to be known as the “shadow pandemic”—but it has also aggravated risk factors while increasing barriers to protection, support, and justice.

This publication aims to focus on the intersection of gender-based violence and the rule of law by examining how legal frameworks, judicial system responses, and public policy contribute to the ways in which gender-based violence is—and is not—addressed around the world. Each piece addresses the complicated challenge of gender-based violence and the successes and failures of various public policy responses globally, and offers recommendations for a path forward.

treme acts of violence that led to death instead. VAW laws are designed to protect people from violence, but their mere existence does not solve the problem. The success of any law is dependent on society's willingness to respect it. In this sense, VAW laws are like stop signs. They can only prevent violence if people believe that the consequences of not obeying the sign will cause them more harm than good. In Nicaragua, study participants did not believe that Law 779 did that. In fact, quite the opposite. They believed that the law made the violence worse. If someone speeds through an intersection without stopping, they may cause a car accident. But if they do, it's not the fault of the stop sign. Unless laws and policies are fully implemented, they may actually exacerbate violence.

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In a 2016 study of Brazilian women attending state-run health clinics, all participants were aware of at least one federal VAW law.⁶ Yet they expressed widespread lack of trust in the government, and viewed the legal sector as ineffective. They felt VAW laws either exacerbated violence or otherwise had little impact on the lives of people experiencing it. One participant pointed out that the possible benefits and protections granted by VAW laws can be completely undermined, and even reversed, by the legal sector's inability to ensure full compliance with these laws, including the consequences for perpetrators. This generalized lack of trust in the government manifested as a lack of confidence in VAW laws and was a major barrier for women seeking services through two pathways to prevent and respond to violence: the health and legal sectors respectively. Numerous participants recounted stories about the ways that women were further traumatized by ineffective interactions with health and legal sector actors—or worse, abused or mur-

dered by their partners in retaliation. One participant went so far as to say that the possibility of such retaliation leads women to “fear the law more than the abusers.”

Such attitudes may only be complicated by unclear data relating to the effects of VAW laws. A study comparing Brazilian data from before and after the enactment of the Maria da Penha Law, Brazil's first federal VAW legislation, reported that physical violence significantly increased after the passage of the law. In 2003, 11 percent of Brazilian women reported experiencing violence; by 2013, seven years after the Maria da Penha Law, this figure had increased to 53.5 percent.⁷ At first glance, this data seems to suggest that the law somehow contributed to increased violence. Yet the reasons for this change are uncertain. It is possible that the actual violence increased, but the results could also reflect increased awareness and reporting of violence, or a combination of both factors. Without further exploration and contextualization, the effects of VAW laws will not be fully understood.

And while VAW laws are intended to directly address violence, other laws and policies may also affect its occurrence. While the world has faced the COVID-19 pandemic, the “shadow pandemic” of relationship violence has also raged on.⁸ Shelter-in-place policies were widely believed to put those experiencing relationship violence at increased risk; numerous studies since the pandemic began have found that speculation to be well grounded.⁹

Whether before or during the pandemic, all of us live in a world where violence is unacceptably normalized; adverse childhood experiences, comu-

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nity violence, and other social comorbidities are risk factors for both experiencing and perpetrating violence.¹⁰ Deeply embedded systems of oppression have made themselves apparent, as evidenced by acts of police violence and domestic terrorism in the United States—and elsewhere around the world. But as troubling as these occurrences have been, we have reason for hope. If COVID-19 was the pressure cooker, the world has been primed for explosive change.

The practice of risk assessment for violence in Brazil is one such change, and it's grounded in more than two decades of feminist activism, the adoption of laws, and scientific research about risk assessment tools and how laws effect the lived experiences of people facing violence. We have successfully identified risk factors for experiencing IPV¹¹ and justifiably centered survivors in our work. The Danger Assessment, a tool validated to predict reassault, as well as attempted and completed femicide, has been translated and cross-culturally adapted for use in Brazil. The vast majority of women participating in a 2020 study assessing the face validity of a translated and cross-culturally adapted version of the Danger Assessment for Brazil found the instrument easy to comprehend, underscoring that people experiencing violence are primed and ready for laws to effect change in their lives.

Less work has been done with regard to perpetrators, but we are learning that they too have experiences of trauma that contribute to their interactions with their intimate partners.¹² Yet most of our approaches with perpetrators have been punitive or carceral in nature. In the wake of COVID-19 we must explore new methods of accountability grounded in transformative justice. We must ask ourselves what an abolitionist approach to IPV prevention and response would look like. And we must do so because the root cause of relationship violence is not individual perpetrators.

The root causes are systems of oppression, racism, sexism, and all of the -isms.¹³ As the poet Audre Lorde taught us, “There is no hierarchy of oppression.”¹⁴

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So, we must consider new means of individual and societal accountability, including ways to dismantle harmful gender norms. This future is difficult to imagine because it is so different from the world we know today. But it is costing us too much not to act. And if COVID has taught us anything, it is that the world can change overnight. Through the rule of law, combined with other strategies for governance and justice, we can bring forth the change necessary to solve the wicked problem of gender-based violence.

NOTES

1. Presidente da República, “Lei No. 14.149, De 5 de Maio de 2021,” *Diário Oficial da União* 84, 1, May 2021, <https://www.in.gov.br/en/web/dou/-/lei-n-14.149-de-5-de-maio-de-2021-318198245>.
2. Presidência da República, “Lei No. 11.340, de 7 de Agosto de 2006,” August 2006, http://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Lei/L11340.htm; Presidência da República, “Lei No. 13.104, de 9 de Março de 2015,” March 2015, http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2015/Lei/L13104.htm.
3. World Bank Group, *Women, Business and the Law 2020* (Washington, D.C.: World Bank, 2020), <https://elibrary.worldbank.org/doi/abs/10.1596/978-1-4648-1532-4>.
4. World Health Organization, “WHO multi-country study on women’s health and domestic violence against women: Initial results on prevalence, health outcomes and women’s responses,” 2005, <https://www.who.int/reproductivehealth/publications/violence/24159358X/en/>.
5. Samantha M. Luffy, Dabney P. Evans, and Roger W. Rochat, “It is better if I kill her”: Perceptions and opinions of violence against women and femicide in Ocotal, Nicaragua, after Law 779,” *Violence and Gender* 2, no. 2 (June 2015), 107–111, <https://doi.org/10.1089/vio.2015.0008>.
6. Dabney P. Evans et al., “Women fear the law more than the perpetrators”: Trust in health and legal response to Violence Against Women in Brazil,” *Cadernos de Saúde Pública* 36, no. 10 (2020), <http://dx.doi.org/10.1590/0102-311X00114019>.
7. Mariana V. Gattegno, Jasmine D. Wilkins, and Dabney P. Evans, “The relationship between the Maria da Penha Law and intimate partner violence in two Brazilian states,” *International Journal for Equity in Health* 15, no. 138 (November 2016), <https://doi.org/10.1186/s12939-016-0428-3>.
8. UN Women, “The Shadow Pandemic: Violence against women during COVID-19,” accessed June 17, 2021, <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>.
9. Alex R. Piquero et al., “Domestic Violence During COVID-19: Evidence from a Systematic Review and Meta-Analysis,” *Council on Criminal Justice* (Washington D.C.: March 2021), <https://miami.pure.elsevier.com/en/publications/domestic-violence-during-the-covid-19-pandemic-evidence-from-a-sy>; Dabney P. Evans, Shila René Hawk, and Carrie E. Ripkey, “Domestic Violence in Atlanta, Georgia Before and During COVID-19,” *Violence and Gender* (December 2020), <https://doi.org/10.1089/vio.2020.0061>.
10. “Risk and Protective Factors,” National Center for Injury Prevention and Control, Division of Violence Prevention, Centers for Disease Control and Prevention, last reviewed March 2, 2020, <https://www.cdc.gov/violenceprevention/youthviolence/riskprotectivefactors.html>; Casey D. Xavier Hall and Dabney P. Evans, “Social comorbidities? A qualitative study mapping syndemic theory onto gender-based violence and co-occurring social phenomena among Brazilian women,” *BMC Public Health* 20, No. 1260 (2020), <https://doi.org/10.1186/s12889-020-09352-7>; Martín Hernán Di Marco and Dabney P. Evans, “Society, Her or Me? An Explanatory Model of Intimate Femicide Among Male Perpetrators in Buenos Aires, Argentina,” *Feminist Criminology* (October 2020), <https://doi.org/10.1177/1557085120964572>.

11. "Evidence Hub: What Works Resources," What Works to Prevent Violence, accessed June 17, 2021, <https://www.whatworks.co.za/resources>.
12. Di Marco and Evans, "Society, Her or Me?"
13. Kimberle Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum* 1989, no. 1 (1989), 139–167, <http://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8>.
14. Audre Lorde, "There is no hierarchy of oppressions," *Bulletin: Homophobia and Education* (New York: Council on Interracial Books for Children, 1983), 14.



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