

# International Legal Instruments and Model Framework on Legislation to Address Violence against Women and Girls

## Session 2

Rosalyn Park, The Advocates for Human Rights

# UN Model Framework

**Handbook: Recommendations, commentaries and examples of promising practices.**

## **Checklist:**

- Define the legislative goal
- Consult with relevant stakeholders
- Use an evidence-based approach

# UN Model Framework

- Definitions
- Prevention
- Protection, support and assistance to victims
- Rights of immigrant women
- Investigation, legal proceedings, evidence
- Protection orders
- Sentencing
- Implementation
- Monitoring

# For example:

## 3.2.3. Training and capacity-building for public officials

### Recommendation

Legislation should mandate:

- Regular and institutionalized gender-sensitivity training and capacity-building on violence against women for public officials;
- Specific training and capacity-building for relevant public officials when new legislation is enacted, to ensure that they are aware of and competent to use their new duties; and
- That such training and capacity-building be developed and carried out in close consultation with non-governmental organizations and service providers for complainants/survivors of violence against women

# Supplement to UN Model Framework

## Focuses on harmful practices:

- Honour Crimes
- Dowry-related violence
- Stove burnings
- Acid attacks
- Bride price
- Polygamy

# For example:

## 3.3.5.2. Considerations for criminal offences related to stove burning

### **Recommendation**

Legislation should:

- establish a specific offence of stove burning;
- mandate medical officials to report to the police any case of grievous bodily harm occasioned by fire, kerosene oil, or other stove-related matter; and
- mandate that police officers investigate any case of stove burning reported by a medical official.

### **Commentary**

Stove burning is associated with many different forms of discrimination and violence against women and has, to date, frequently been ignored by law enforcement authorities due to the ability to present the violence as an "accident". In order to counteract impunity for stove burnings, Pakistan introduced a new section 174-A into its *Criminal Procedure Code* in 2001, which requires that, where a person, grievously injured by burns through fire, kerosene oil, chemical or by any other way, is brought to a medical officer on duty

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- Ask for programming help in the FAQs Section

### Programming Essentials, Monitoring & Evaluation

This section provides essential information and guidance for programming to address violence against women and girls, including: basics on the forms, prevalence and consequences; international frameworks; main challenges; main strategies for prevention and response; and a full module on monitoring and evaluation.

[Start Here](#)



# Programming Modules

The screenshot shows a web browser window with the address bar displaying [www.endvawnow.org](http://www.endvawnow.org). The browser's bookmark bar includes 'The Advocates', 'StopVAW', 'OHCHR', 'Google', and 'Discover Human Rights'. A yellow banner at the top of the page reads 'QUICK ESCAPE FROM SITE'. Below this, the heading 'Programming Modules:' is followed by a grid of 15 modules, each with an icon and a text label. The 'Legislation' module, represented by a purple icon of a scale of justice, is circled in red. The other modules are: Adolescents & Youth, Campaigns, Conflict/Post-Conflict, Coordinated Responses, Education, Health, Justice, Men & Boys, Prevention, Policy & Budget Cycles, Shelter, and Security/Military/Police.

Icon	Module Name
	Adolescents & Youth
	Campaigns
	Conflict/Post-Conflict
	Coordinated Responses
	Education
	Health
	Legislation
	Justice
	Men & Boys
	Prevention
	Policy & Budget Cycles
	Safe Cities
	Security/Military/Police
	Shelter

# Legislation Module

www.endvawnow.org/en/modules/view/8-legislation.html

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## Legislation

View Contributors

Comprehensive legislation to prevent, respond to and punish all forms of violence against women and girls is an essential first step to ending impunity. This module provides expert guidance on drafting, advocating for, implementing and monitoring national legislation. It provides step-by-step guidance, case studies of the most promising practices from diverse regions in the world and tools for implementation.

Just click on the menu headings below to get started!

Last update: March, 17 - 2011

- Introduction +
- Guiding Principles for Developing Legislation +
- Drafting Specific Legislation on Violence against Women and Girls +
- Advocating for New Laws or the Reforming of Existing Laws +
- Implementing Laws +
- Monitoring of Laws +
- References +

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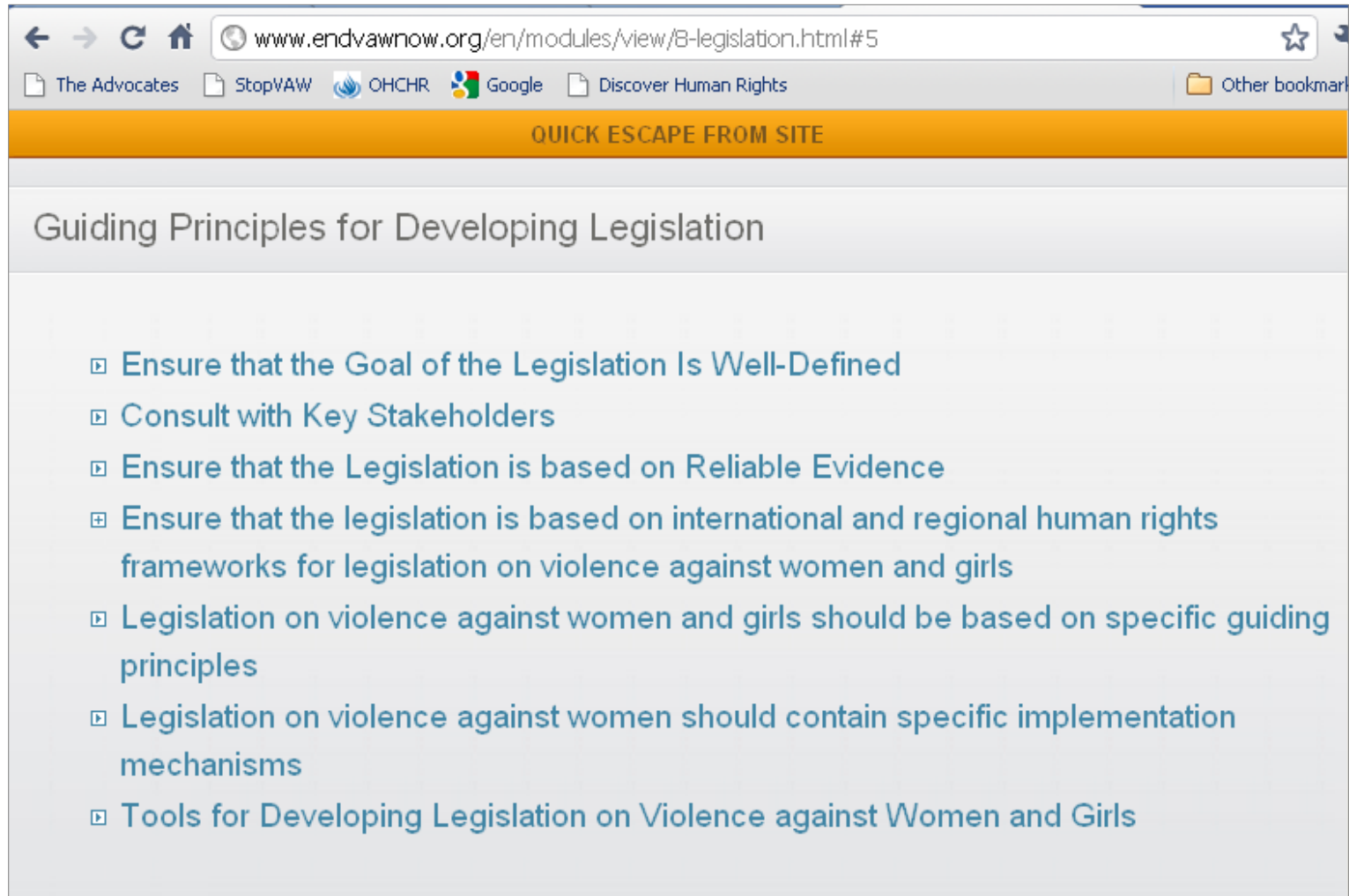
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# Guiding Principles



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## Guiding Principles for Developing Legislation

- ▣ Ensure that the Goal of the Legislation Is Well-Defined
- ▣ Consult with Key Stakeholders
- ▣ Ensure that the Legislation is based on Reliable Evidence
- ▣ Ensure that the legislation is based on international and regional human rights frameworks for legislation on violence against women and girls
- ▣ Legislation on violence against women and girls should be based on specific guiding principles
- ▣ Legislation on violence against women should contain specific implementation mechanisms
- ▣ Tools for Developing Legislation on Violence against Women and Girls

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# Drafting Specific Legislation

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## Drafting Specific Legislation on Violence against Women and Girls

### Introductory Note

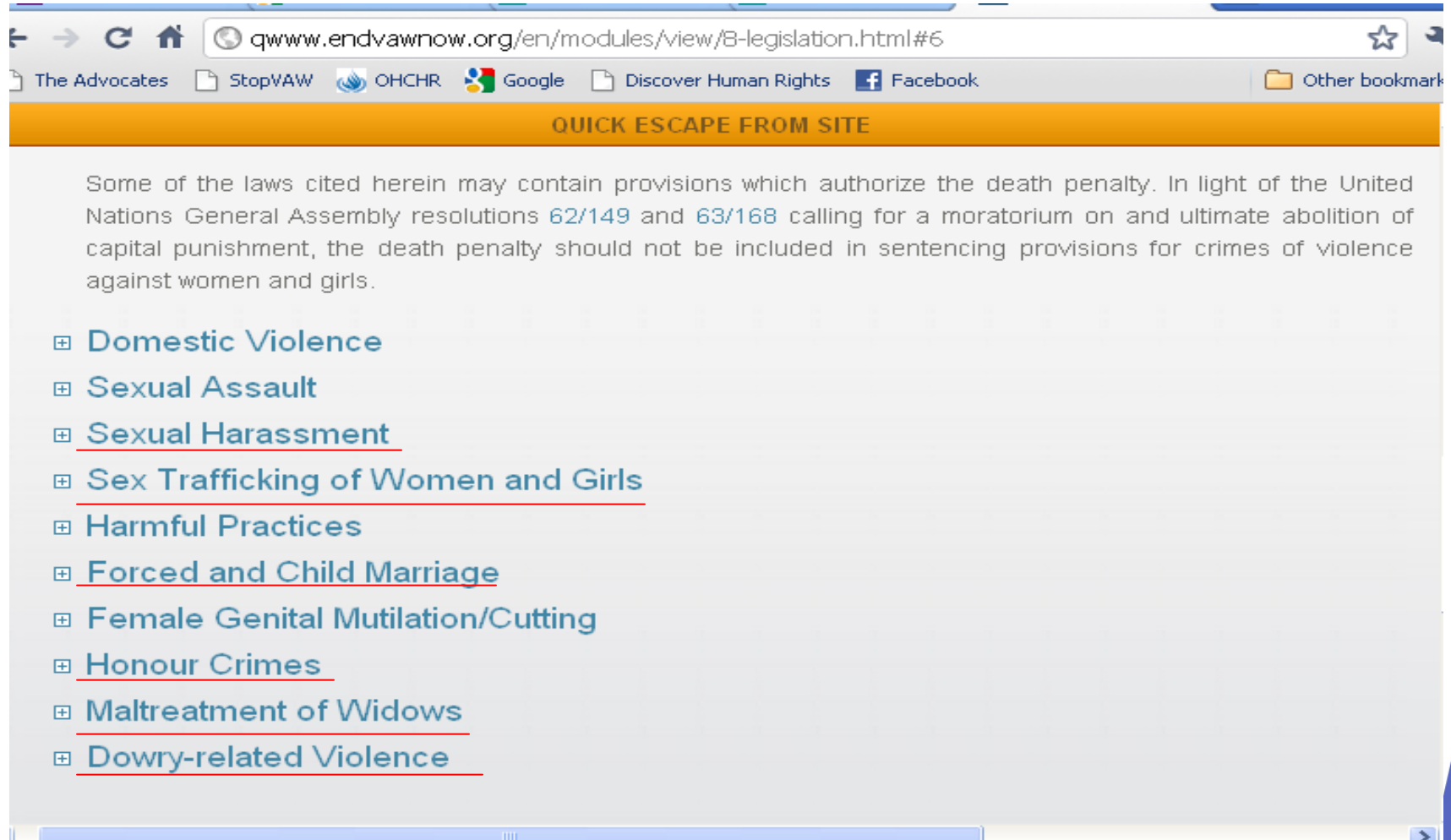
Throughout this knowledge module, reference to certain provisions or sections of a piece of legislation, part of a legal judgment, or aspect of a practice does not imply that the legislation, judgment, or practice is considered in its entirety to be a good example or a promising practice.

Some of the laws cited herein may contain provisions which authorize the death penalty. In light of the United Nations General Assembly resolutions [62/149](#) and [63/168](#) calling for a moratorium on and ultimate abolition of capital punishment, the death penalty should not be included in sentencing provisions for crimes of violence against women and girls.

- Domestic Violence
- Sexual Assault
- Sexual Harassment
- Sex Trafficking of Women and Girls
- Harmful Practices
- Forced and Child Marriage
- Female Genital Mutilation/Cutting
- Honour Crimes
- Maltreatment of Widows
- Dowry-related Violence

**10  
specific  
issues**

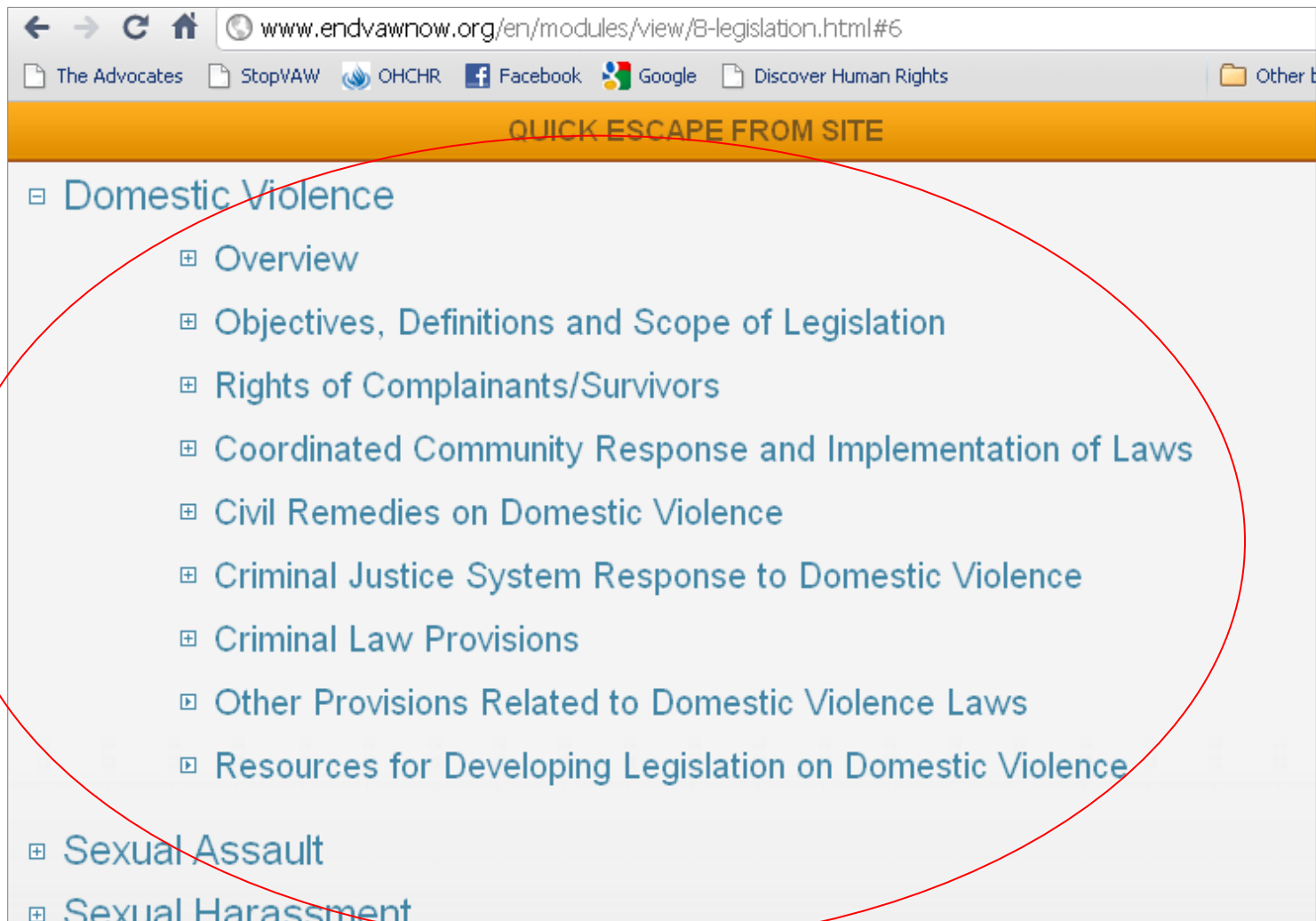
# Specific Issues, including:



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- Domestic Violence
- Sexual Assault
- Sexual Harassment
- Sex Trafficking of Women and Girls
- Harmful Practices
- Forced and Child Marriage
- Female Genital Mutilation/Cutting
- Honour Crimes
- Maltreatment of Widows
- Dowry-related Violence

# Domestic Violence



The screenshot shows a web browser window with the URL [www.endvawnow.org/en/modules/view/B-legislation.html#6](http://www.endvawnow.org/en/modules/view/B-legislation.html#6). The browser's address bar and tabs are visible, including 'The Advocates', 'StopVAW', 'OHCHR', 'Facebook', 'Google', and 'Discover Human Rights'. A prominent orange banner at the top of the page reads 'QUICK ESCAPE FROM SITE'. Below this, a table of contents is displayed, with the 'Domestic Violence' section highlighted by a red oval. The table of contents includes the following items:

- Domestic Violence
  - Overview
  - Objectives, Definitions and Scope of Legislation
  - Rights of Complainants/Survivors
  - Coordinated Community Response and Implementation of Laws
  - Civil Remedies on Domestic Violence
  - Criminal Justice System Response to Domestic Violence
  - Criminal Law Provisions
  - Other Provisions Related to Domestic Violence Laws
  - Resources for Developing Legislation on Domestic Violence
- Sexual Assault
- Sexual Harassment

# Core Elements of Domestic Violence Legislation

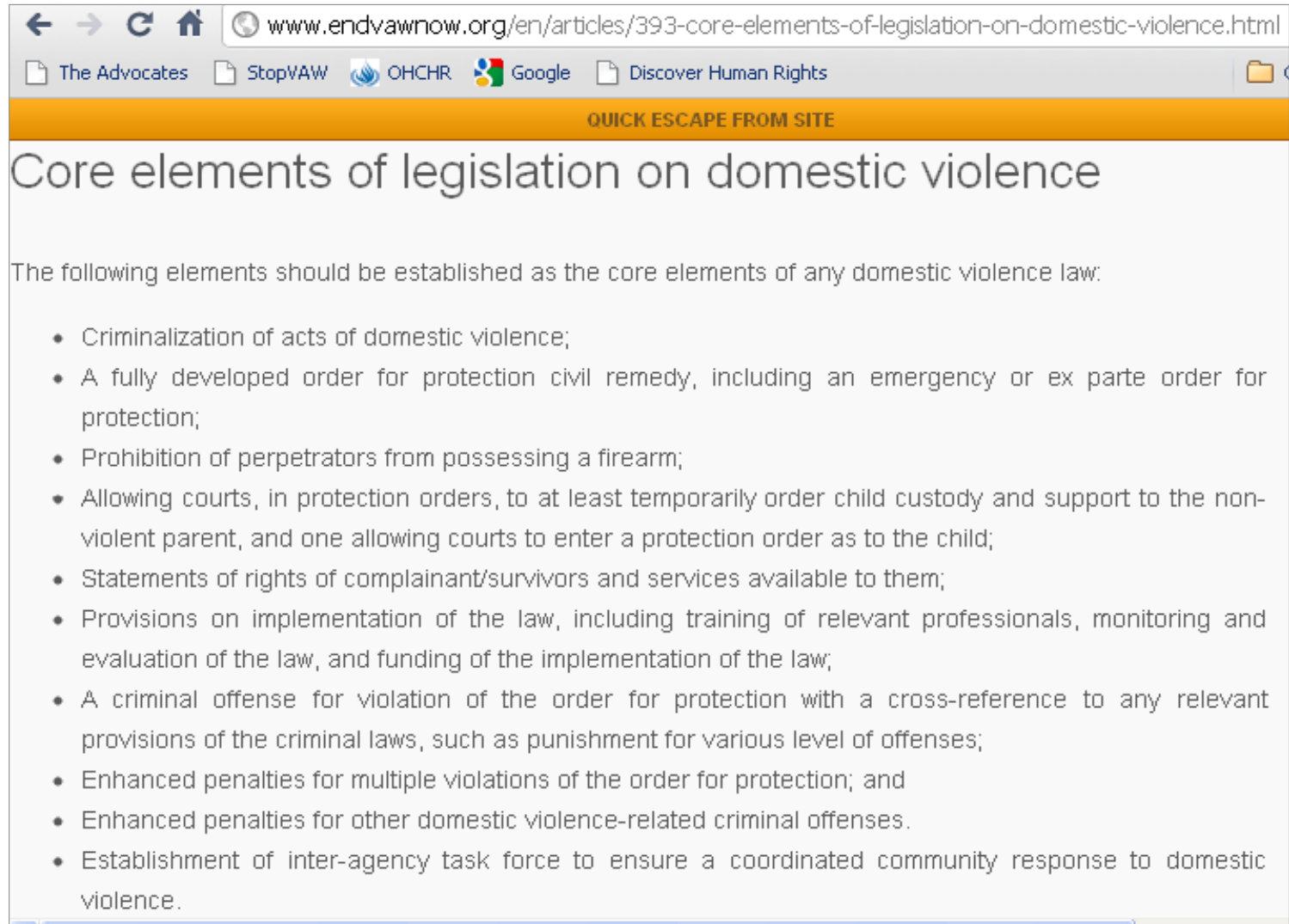


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- Domestic Violence
  - Overview
    - Core elements of legislation on domestic violence
    - Sources of international law
    - Specific legislation on domestic violence
  - Objectives, Definitions and Scope of Legislation
  - Rights of Complainants/Survivors
  - Coordinated Community Response and Implementation of Laws
  - Civil Remedies on Domestic Violence
  - Criminal Justice System Response to Domestic Violence
  - Criminal Law Provisions
  - Other Provisions Related to Domestic Violence Laws
  - Resources for Developing Legislation on Domestic Violence



# Core Elements



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## Core elements of legislation on domestic violence

The following elements should be established as the core elements of any domestic violence law:

- Criminalization of acts of domestic violence;
- A fully developed order for protection civil remedy, including an emergency or ex parte order for protection;
- Prohibition of perpetrators from possessing a firearm;
- Allowing courts, in protection orders, to at least temporarily order child custody and support to the non-violent parent, and one allowing courts to enter a protection order as to the child;
- Statements of rights of complainant/survivors and services available to them;
- Provisions on implementation of the law, including training of relevant professionals, monitoring and evaluation of the law, and funding of the implementation of the law;
- A criminal offense for violation of the order for protection with a cross-reference to any relevant provisions of the criminal laws, such as punishment for various level of offenses;
- Enhanced penalties for multiple violations of the order for protection; and
- Enhanced penalties for other domestic violence-related criminal offenses.
- Establishment of inter-agency task force to ensure a coordinated community response to domestic violence.

CORE ELEMENT:  
*Criminalize acts* of  
domestic violence.

*Legislation should communicate*  
**zero tolerance** *for all*  
*violence against women and girls.*

# Criminalize acts of domestic violence



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- Domestic Violence
  - Overview
  - Objectives, Definitions and Scope of Legislation
  - Rights of Complainants/Survivors
  - Coordinated Community Response and Implementation of Laws
  - Civil Remedies on Domestic Violence
  - Criminal Justice System Response to Domestic Violence
  - Criminal Law Provisions
    - Criminal penalties and procedures
    - Criminal sanctions and sentencing provisions
  - Other Provisions Related to Domestic Violence Laws
  - Resources for Developing Legislation on Domestic Violence

← → ↻ 🏠 [www.endvawnow.org/en/articles/441-criminal-penalties-and-procedures.html](http://www.endvawnow.org/en/articles/441-criminal-penalties-and-procedures.html) ☆

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# Criminal penalties and procedures

Criminal penalties and procedures

Legislation should state the penalties for all acts of domestic violence, including those involving low-level injuries. Legislation should not allow for payment of bride price or dowry as defenses to charges of domestic violence.

Evidence

- Legislation should provide that medical or forensic evidence is not required for domestic violence convictions.
- Legislation should prevent the introduction of the survivor's sexual history in both civil and criminal proceedings either during the trial or during the sentencing phase.
- Legislation should state that a survivor, including a minor survivor, may receive a medical and forensic examination regardless of whether or not the survivor reports to law enforcement. In countries with mandatory reporting laws, legislation should require mandatory reporters to provide a full explanation of laws and policies to the survivor when a report is required.
- Legislation should state that the survivor, including a minor survivor, may be examined and treated by a forensic doctor or other medical practitioner without the consent of any other person.
- Legislation should state when the survivor is referred for medical examination, the examination

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- Domestic Violence

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## Criminal sanctions and sentencing provisions

- Criminal penalties should be increased for repeated domestic violence offenses, even if they involve low-level injury. (See: [Family Violence: A Model State Code](#), Sec. 203.) A 2009 study entitled [Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors and Judges](#) reported that enhanced penalties significantly reduced rearrest rates for domestic violence offenses. p. 52

**Case study: Malaysia**

For example, the law of [Malaysia](#) provides increased penalties for violations of protection orders and for violations that involved violence, and also allows the court to make a new order for protection:

8. (1) *Any person who willfully contravenes a protection order or any provision thereof shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.*

(2) *Any person who willfully contravenes a protection order by using violence on a protected person shall, on conviction, be liable to a fine not exceeding four thousand ringgit or to imprisonment for a term not exceeding one year or to both.*

(3) *Any person who is convicted for a second or subsequent violation of a protection order under subsection (2) shall be punished with imprisonment for a period of not less than seventy-two hours and not more than two years, and shall also be liable to a fine not exceeding five thousand ringgit.*

(4) *For the purposes of this section a "protection order" includes an interim protection order.*

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- Drafting Specific Legislation on Violence against Women and Girls
- • Domestic Violence
- • • Criminal Law

# Criminal Justice Response



The screenshot shows a web browser window with the address bar displaying [www.endvawnow.org/en/modules/view/8-legislation.html#6](http://www.endvawnow.org/en/modules/view/8-legislation.html#6). The browser's bookmark bar includes 'The Advocates', 'StopVAW', 'OHCHR', 'Google', 'Discover Human Rights', and 'Other bookmark'. Below the browser window is a table of contents titled 'QUICK ESCAPE FROM SITE'. The table of contents lists several topics, with 'Criminal Justice System Response to Domestic Violence' highlighted by a red arrow and a red oval. This highlighted item has three sub-items: 'Duties of Police Officers', 'Duties of prosecutors', and 'Duties of judiciary'. Other items in the table of contents include 'Objectives, Definitions and Scope of Legislation', 'Rights of Complainants/Survivors', 'Coordinated Community Response and Implementation of Laws', 'Civil Remedies on Domestic Violence', 'Criminal Law Provisions', 'Other Provisions Related to Domestic Violence Laws', and 'Resources for Developing Legislation on Domestic Violence'.

- ▣ Objectives, Definitions and Scope of Legislation
- ▣ Rights of Complainants/Survivors
- ▣ Coordinated Community Response and Implementation of Laws
- ▣ Civil Remedies on Domestic Violence
- ▣ Criminal Justice System Response to Domestic Violence
  - ▣ Duties of Police Officers
  - ▣ Duties of prosecutors
  - ▣ Duties of judiciary
- ▣ Criminal Law Provisions
- ▣ Other Provisions Related to Domestic Violence Laws
- ▣ Resources for Developing Legislation on Domestic Violence

CORE ELEMENT:  
Provide an order for  
protection civil remedy.



# Two Types of Order for Protection Remedies

## 1. Emergency “ex parte” protection order

- Issued immediately
- Without a hearing

## 2. Long-term protection order

- Based on hearing
- Duration for at least 1 year

# Remedies in an Order for Protection

- Eviction of the perpetrator
- Stay a certain distance away from victim
- Financial assistance to victim
- Prohibit perpetrator from contacting victim
- Prohibit perpetrator from further acts of violence
- Prohibit perpetrator from possessing or using a firearm

CORE ELEMENT:

*Criminalize a violation* of an  
order for protection

# Criminalize Violations of Protection Orders

- Violation of order for protection = criminal offense
- No independent violence or threats needed
- Jail time
- Separate offense prosecuted in addition to other criminal acts
- Enhanced penalties for multiple violations

## CORE ELEMENT:

Allow courts to order  
*child custody and support*  
to the non-violent parent

# Child Custody and Support...

*A presumption against granting custody of the children to a violent parent.*

## CORE ELEMENT:

Provide a statement of  
*victims' rights and services*  
available to them

# Victims' Rights and Services

- Support services
- Economic assistance
- Confidentiality
- Court administration staff to assist victims
- Agency responsible for victim services
- Specific police obligations to support these rights

*Not conditional on cooperation with authorities.*



CORE ELEMENT:  
Address Implementation of  
the Legislation

Training - Monitoring - Funding

# Training – Monitoring - Funding

- ***Trainings*** for police, prosecutors, judges, social services and child protection agencies
- ***Monitoring*** of the state's implementation of the law by all sectors
- ***Fund*** implementation of legislation

## CORE ELEMENT:

Establish an inter-agency task force for a *coordinated community response*

# Coordinated Community Response



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*Thank you!*

**Rosalyn Park**

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