



EWL Glossary On Forms Of Violence Against Women And Girls

Contents

1. Child marriages (and forced marriage):	2
2. Denial of Sexual and Reproductive Health and Rights as Violence Against Women and Girls:	3
3. Domestic violence (DV):	4
4. Female Genital Mutilation (FGM):	5
5. Femicide:	6
6. Forced prostitution:	7
7. Forced visitation:	8
8. Gender-based violence against women:	8
9. Institutional betrayal:	9
10. Obstetric violence:	10
11. Online violence against women and girls or Cyberviolence:	10
a) Abuse of new technologies:	10
b) Abusive sexting:	10
c) Creepshots:	11
d) Cyberbullying	11
e) Cyberflashing:	11
f) Cyber Harassment:	11
g) Cyberstalking:	11
h) Deep Fakes:	11
i) Doxxing:	12
j) Hacking:	12
k) Image-based sexual abuse:	12
l) In Real Life Attacks:	12
m) Malicious distribution:	12
n) Mob attacks and cyber mobs:	12
o) Non-consensual taking, producing or procuring of intimate images	12
p) Online grooming	13



EUROPEAN WOMEN'S
LOBBY
EUROPEEN DES FEMMES

q) Online impersonation:	13
r) Recruitment:.....	13
12. Procedural stalking/harassment:	13
13. Prostitution:.....	13
14. Rape:	14
15. Sexual exploitation.....	15
16. Stalking and sexual harassment	15
17. Stealthing	16
18. Violence at the workplace	16

1. Child marriages (and forced marriage): With regard to international legal instruments, child marriages are prohibited under the 1979 UN Convention on the elimination of all forms of discrimination against women. The Convention states in Article 16(2) that ‘the betrothal and the marriage of a child shall have no legal effect, and all necessary measures, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory’. This provision mirrors Article 2 of the UN Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted in 1962. **It obliges States to define a minimum marriageable age below which marriage cannot be celebrated.** In addition, it mirrors Article 2 of the UN Supplementary Convention on the abolition of slavery, slave trade and institutions and practices similar to slavery of 1956, which requires States parties to define a ‘suitable minimum age of marriage’. Despite the margin left to States in defining the minimum age for marriage, the CEDAW Committee established by that Convention determined **the minimum age for marriage to be 18 years for both boys and girls** in its General Recommendation No. 21. The Committee stressed that some countries provide a lower age for marriage for women, relying on the incorrect assumption that they develop at a different rate than men. Considering the severe consequences of marriage for a child, including violation of his/her right to health and reproductive rights, and considering that girls are often forced to marry, the Committee concluded that national provisions that allow different ages for marriage for men and women violate women’s right to choose a partner freely. This argument

was reinforced in the already mentioned CEDAW and CRC General Recommendation No. 31. According to the two Committees, marriages at an earlier age can be allowed but only in exceptional circumstances and never below 16 years, provided that grounds for obtaining permission are legitimate and strictly defined by law and that the marriage is permitted by a court of law 'upon the full, free and informed consent of the child or both children, who must appear in person before the court'.

2. Denial of Sexual and Reproductive Health and Rights as Violence Against Women and Girls:

Denying access to Sexual and Reproductive Health and Rights embodies a form of Violence Against Women and Girls (VAWG) and more specifically an important infringement to women's and girls' health. In June 2021, the European Parliament resolution on the **situation of sexual and reproductive health and rights in the EU**, in the frame of women's health stated that 'the realisation of SRHR is an essential element of human dignity and is intrinsically linked to the achievement of gender equality and combating gender-based violence'. Hence, the importance of recognizing and underlying the denial of access to SRHR as VAWG in the EU directive proposal despite the a priori lack of competence of the EU in this field.

Indeed, if the European Union has a limited legal competence regarding the access to health services (article 168 TFEU), it still has a room for maneuver in practice when we notice the European Commission has already funded the Rights, Equality and Citizenship programme based on Article 168 TFEU. Moreover, the European Parliament in its resolution of 10 March 2015 on progress on equality between women and men in the European Union in 2013, stated that 'sexual and reproductive rights are fundamental human rights and should be taken into account in the EU action programme in the field of health.' It also recommended that all Member States strengthen their free public services to support all women victims of violence and encouraged the adoption of best practices among Member States.



EUROPEAN WOMEN'S
LOBBY
EUROPEEN DES FEMMES

If article 168 TFEU by itself is not a sufficient legal basis to cover health policies in the prevention and protection of women victims of violence in a directive as it excludes 'any harmonisation of the laws and regulations of the Member States', it seems that its combination with article 114(3) TFEU¹ – as it happened with the EU Directive on the application of patients' rights in cross-border healthcare – could work to provide the possibility for women to receive cross-border healthcare which can better respond to the physical and psychological consequences of violence and would allow to fully implement the provisions of the Istanbul Convention.

3. Domestic violence (DV): Despite being the focus of the Istanbul Convention, there is no obligation of criminalizing DV in the Chapter on Substantive Law. **There is an obligation to criminalise several aspects that construe the crime of DV, such as physical and psychological violence and sexual violence.** However, a comprehensive crime of DV has not been theorized in the Convention, which also misses to include, in the definition of sexual violence, marital (or intimate partner) rape. The fact that the crimes included in the Convention have been committed against a person that belongs to the household is included among the aggravating circumstances. The Handbook stressed that: "In practice [...] definitions of domestic violence that include psychological and economic violence may be problematic. Experience has shown that violent offenders may attempt to take advantage of such provisions by applying for protection orders claiming that their partner psychologically abuses them. Further, many women may not expect a strong justice system response to so-called acts of psychological or economic violence against them. In addition, psychological violence is very difficult to prove. **It is therefore essential that any definition of domestic violence that includes psychological and/or economic violence is**

¹ The Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective'



EUROPEAN WOMEN'S
LOBBY
EUROPEEN DES FEMMES

enforced in a gender-sensitive and appropriate manner”. On this issue, it should be said that Judge Pinto de Albuquerque, in the *Volodina v. Russia* case, decided in 2019, encouraged “the definition of domestic violence as **an autonomous criminal offence consisting in the commission of physical, sexual or psychological harm or harassment, or the threat or attempt thereof, in private or public life, by an intimate partner, an ex-partner, a member of the household, or an ex-member of the household because it does not duplicate other existing legal provisions and has a legal value of its own**”. He stressed the following: “(1) The law must define domestic violence as an autonomous criminal offense. (2) The law must equate the punishment of the criminal offense of domestic violence to that of the most serious forms of aggravated assault. (3) The law must provide for a public-prosecution offense of domestic violence and reflect the “public interest” in prosecuting domestic violence, even in instances where the victim fails to lodge a complaint or subsequently withdraws a complaint. (4) The law must establish the urgent nature of the criminal procedure for investigating domestic violence and provide for an urgent response mechanism in relation to the investigation and prosecution of domestic violence incidents. (5) The law must provide for preventive detention of the perpetrator where this is deemed necessary. (6) The law must indicate the need for adequate training of judicial and prosecutorial authorities and the police, so as to ensure effective implementation of the innovative legislative measures described above and the recognition of gender equality”.

4. Female Genital Mutilation (FGM): The condemnation of FGM is widespread. The prohibition of this practice can be said to have achieved the status of customary international law. It is a form of torture or ill-treatment, as highlighted in the recent Resolution of the Human Rights Council of 14 July 2020: ‘Recognizing that the practice constitutes torture or ill-treatment and must be prohibited, in accordance with regional and international human rights standards.’ **According to the resolution, ‘human rights accountability means not only the establishment of protection measures ensuring criminal liability and the provision of legal remedies, but also the implementation of a broad range of other measures in the design, implementation and**



EUROPEAN WOMEN'S
LOBBY
EUROPEEN DES FEMMES

monitoring of policies, programmes and services to ensure women's and girls' enjoyment of human rights with the full, equal active and meaningful participation of women and girls at risk of and affected by female genital mutilation,' hence it combines the three pillars of prevention, protection and prosecution. **The resolution urges States to condemn 'all harmful practices that affect women and girls, in particular female genital mutilation, including medical acts performed within or outside of medical institutions,' to stop the 'medicalisation of FGM', and to adopt national legislation prohibiting FGM, ensuring its strict application, while – that is a fundamental aspect – 'working to harmonize their laws in order to effectively combat the cross-border practice of female genital mutilation, including by strengthening transnational police and judicial cooperation in the exchange of information on victims and perpetrators of female genital mutilation, in accordance with national laws and policies and international human rights law.'**

According to the 2011 Istanbul Convention, Parties shall take the necessary legislative or other measures to ensure that the **following intentional conducts are criminalised:**

- a. excising, infibulation or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris;
- b. coercing or procuring a woman to undergo any of the acts listed in point a;
- c. inciting, coercing or procuring a girl to undergo any of the acts listed in point a.

5. Femicide: Neither the Istanbul Convention nor the GR 35 mention femicide as behaviour that must be criminalised in domestic criminal law. Femicide was coined by the American sociologist Diana Russell and incorporated in the law of 18 countries in Latin America and the Caribbean region. **"Femicide is an extreme form of violence that culminates in the murder of women and may include torture, mutilation, cruelty, and sexual violence"**.



[EIGE](#) defines the different types of femicide:

1. **Intentional killings of women by an intimate partner and/or family member(s):** a. Intentional killing of a woman by an intimate partner (including current or former partners, living in the same household or not); b. Intentional killing of a woman by family member(s) (i. Honour killing ii. Dowry-related killing); c. Other intentional killing of a woman by family member(s).
2. **Other types of intentional killings:** a. Killing of a woman by non-family member(s) involving sexualised violence; b. Sexual-exploitation-related killing of a woman (with the exception of trafficking-related killing); c. Trafficking-related killing of a woman; d. Killing of a woman in the context of a continuum of violence in particular settings (including the killing of a woman by carers or persons in authority, killing of political activists, hate killing) (i. From an authority/political group ii. In a care relationship); e. Killing of a woman older than 65 by non-family members; f. Other types of intentional killing of a woman not listed above.
3. **Unintentional killings of women:** a. Death of a woman resulting from intimate partner violence; b. FGM-related death; c. Other types of unintentional killing of a woman not included above.

6. Forced prostitution: EWL does not agree with use of the term “forced prostitution”. This term implies a form of prostitution where the woman or person involved does so without the context of patriarchal objectification, commodification and coercion, which the EWL does not recognise. The origins of the term “forced prostitution” is from countries seeking traditionally to legalise or decriminalise prostitution to imply there is a form of “safe” prostitution possible. EWL recognises that the vast majority of those affected by prostitution entered at a young age, have a background of vulnerability, would leave prostitution if they could and face extreme and



EUROPEAN WOMEN'S
LOBBY
EUROPEEN DES FEMMES

traumatic forms of violence. EWL recognises all forms of prostitution as violence and therefore stands for the inclusion of “prostitution” holistically in the VAWG Directive.

7. Forced visitation: Contact maintained with the abusive parent after having left the abusive relationship through a decision of the authorities establishing visitation contrary to the best interest of the child and the protection of the woman from secondary victimization, subjecting both the mother and the child to further exposure of physical, psychological violence and emotional abuse.

8. Gender-based violence against women: Seen as an **expression of unequal power between men and women**. VAW manifests in multiple local forms, from domestic violence to female genital mutilation, from honour killings to mass rape, as constituting a **pattern of global behaviour which reveals the systemic and structural nature of such violence**.

- Article 1 of the Declaration adopted in 1993 addressed VAW as encompassing ‘**any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life**’ + recommendation 19 of CEDAW: “**violence directed against a woman because she is a woman or that affects women disproportionately**, including acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”.
- **States are therefore responsible BOTH for acts committed by their own organs** (e.g. violence perpetrated by officials in a prison) **and for acts of private violence for failing to adopt measures aimed at preventing and repressing VAW.**



EUROPEAN WOMEN'S
LOBBY
EUROPEEN DES FEMMES

- CEDAW Committee uses the term “**Gender-based violence against women**” and not merely “Violence Against Women” because it **sheds light on the gendered causes and impacts of violence and strengthens the understanding of this violence as social.**
- **GBVAW** should be conceived as **an umbrella term, a cluster of offenses and harmful behaviours, rather than as an offense per se.** The element of intent would therefore not be constitutive of the definition of VAW.
- The **Istanbul Convention is the most advanced binding legal instrument** which contains a list of acts that States are obliged to criminalise in order to correctly implement its provisions.

The IC defines that: “Violence against women is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;” and “*gender-based violence against women* shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately;”

It can be objected that VAW is a form of discrimination against women and that discrimination always occurs by intention: **the intention to discriminate may be systematic without being conscious, and thus intentional. In the case of State’s actions, intent does not need to be proved.** A State is responsible for violations of women’s human rights, for example when criminalising abortion in all circumstances, even without showing the intent to cause VAW.

9. Institutional betrayal: The systematic failure of state or social institutions, which are obliged by law to provide protection and justice to the woman who has been a victim of violence, to fulfill its obligation by denying effective protection; with the impact of maintaining the woman’s

vulnerability to the perpetrator, thereby assisting to future violence committed and contributing to feelings of betrayal and re-victimization of the woman.

10. Obstetric violence: The psychological and physical abuse experienced by women during childbirth such as lack of information and consent, insufficient pain relief, lack of trust and security, and the experience of abuse.

11. Online violence against women and girls or Cyberviolence: A comprehensive EU Directive to combat all forms of VAWG must include online violence, which has a clear cross-border dimension and an existing legal basis under “computer crimes” as per Article 83(1) of the TFEU, and is in contravention of EU values relating to equality between women and men under Article 2 of the TEU. The EWL therefore recommends that the legal definition of ‘online violence against women and girls’ be based on **definition proposed by the UN Special Rapporteur on violence against women: “The definition of online violence against women therefore extends to any act of gender-based violence against women that is committed, assisted or aggravated in part or fully by the use of ICT, such as mobile phones and smartphones, the Internet, social media platforms or email, against a woman because she is a woman, or affects women disproportionately.”**

a) Abuse of new technologies: Abuse of new technologies can coincide with online violence but can also be different and foster offline violence: for example, installing spyware; misusing private/ family accounts for online services; changing passwords. In the context of domestic and family violence, smart homes.

b) Abusive sexting: Sexting is the consensual electronic sharing of naked or sexual photographs. This is different, however, from the non-consensual sharing of the same images. While teenage boys and girls sext at the same rates, boys are between two and three times more likely to share images that they are sent.



- c) **Creepshots:** Creepshots are also called digital voyeurism. Creepshots consist of perpetrators surreptitiously taking photos or videos of women's private areas for the purpose of sexual gratification. In some cases, the act of taking the image without the victim's knowledge, and the subsequent violation of their privacy and agency, is what provides the sexual 'gratification'.
- d) **Cyberbullying:** Cyberbullying consists of repeated **behaviour such as sending mean text messages, starting rumours, or posting images with the objective of frightening and undermining someone's self-esteem or reputation**, which sometimes pushes vulnerable individuals to depression and suicide.
- e) **Cyberflashing:** Cyberflashing consists of sending unsolicited sexual images via dating or messaging applications, texts, or using Airdrop or Bluetooth technologies (e.g. "Zoombombing").
- f) **Cyber Harassment:** Cyber harassment is the use of digital means to communicate or interact with a non-consenting person. Cyberbullying occurs the most between minors. Online sexual harassment can take the form of comments, videos, photos, and graphic images of sexual nature aimed at vilifying women and creating conditions of humiliation and sexualisation, because they are women. Offensive sexist and insulting words can be used, as well as commentaries on women's physical appearances.
- g) **Cyberstalking:** Cyberstalking is the act of spying, fixating or compiling information about somebody online and to communicate with them against their will.
- h) **Deep Fakes:** Deep fakes are videos in which one face has been (seamlessly) replaced by another face, using algorithms and deep learning, and sound is manipulated, so as to create the illusion that another person's actions are being staged.



- i) **Doxxing:** Doxxing refers to the online researching and publishing of private information on the internet to publicly expose and shame the person targeted.
- j) **Hacking:** Hacking, the act of **intercepting private communications and data**, can target women and girls, especially in the form of webcam hacking.
- k) **Image-based sexual abuse:** Image-based sexual abuse is the fact of using private pictures and videos of sexual character, given or exchanged, and posting them online to shame and humiliate the victim. It can be the extension of intimate partner violence to online spaces. Images can also be obtained by hacking into the victim's computer, social media accounts or phone, and can aim to inflict real damage on the target's 'realworld' life (such as getting them fired from their job).
- l) **In Real Life Attacks:** In Real Life Attacks describe incidents where online abuse either moves into the "real" world or is already part of an ongoing stalking or intimate partner violence interaction. IRL trolling can also mean simply trying to instill fear by letting a target know that the abuser knows their address or place of employment.
- m) **Malicious distribution:** Malicious distribution is the use of tech tools to distribute defamatory material related to the victim and/ or organizations; e.g. by using new technologies as a propaganda tool to promote violence against women, call for violence against abortion providers, etc.
- n) **Mob attacks and cyber mobs:** Hostile mobs include hundreds, sometimes thousands of people, systematically harassing a target.
- o) **Non-consensual taking, producing or procuring of intimate images** or videos include acts of "upskirting" and taking "creepshots" as well as producing digitally altered imagery in which a person's face or body is superimposed or "stitched into" a pornographic photo or



EUROPEAN WOMEN'S
LOBBY
EUROPEEN DES FEMMES

video, known as “fake pornography” (such as “deepfakes”, when synthetic images are created using artificial intelligence).

- p) Online grooming:** Online grooming is the process of building an online abusive relationship with a child, in order to lure the child into sexual abuse, child-trafficking situations, child prostitution, or child documented rape. The term “grooming” is widely criticised by survivors themselves, as it fails to name explicitly the child sexual abuse dimension of the act.
- q) Online impersonation:** Online impersonation is the fact of using the name or identity of someone else with the intend to harm, defraud, intimidate, or threaten any person, online impersonation may be used to discredit targeted women with their social and professional peers or for criminal purposes similar to offline identity theft.
- r) Recruitment:** Recruitment is the use of technology to lure potential victims into trafficking and prostitution. Social media is used by traffickers to sell people whose photographs they share, without their consent, often including photographs of their abuse of women as an example to others.

12. Procedural stalking/harassment: Procedural stalking/harassment involves the systematic subjection of the woman to unfounded legal procedures by her former partner, as a means to continue exercising control over the woman (e.g., initiating proceedings before the guardianship authority, tax authorities, health insurance institutions; initiating court proceedings).

13. Prostitution: “Prostitution is the abuse and exploitation of a person through the commercialisation of their body for the sexual and political benefit of a second party, with objectification being intrinsic to the act, including pornographic acts, often involving a third coercive party making financial benefit of the exploitation of the person, where the absence of

consent is recognised due to the coercive nature of using payment (whether financial or material) to achieve “consent”.” EWL advocates that both second and third parties (ie “buyers”, pimps and traffickers) face criminalisation for their involvement in the exploitation of others in prostitution.

Some forms of online VAWG are directly linked to prostitution and sex trafficking. Because of the anonymity provided by the Internet, and because the internet has the characteristics of an opaque transnational marketplace, victims can be sold numerous times to multiple buyers on a daily basis. Social media profiles and other new technologies allow clients to “shop” for women and girls – see page 13 points p) Online grooming and r) Recruitment.

14. Rape: The definition in the Istanbul Convention of ‘sexual violence, including rape’ **stresses the absence of consent.** Absence of consent, as said by the Special Rapporteur on VAW must become **‘the global standard for the definition of rape.’** Hence, in *M.C. v. Bulgaria*¹, the ECtHR clearly argued that state practice demonstrates how lack of consent is the pivotal element of the crime in the majority of national criminal law systems, and how **rape is a violation of sexual autonomy.** In a hearing in front of the SR on VAW in May 2020, the president of GREVIO, M. Naudi, explained the approach which is fully endorsed by GREVIO: **the ‘only-yes-means-yes’ approach: ‘This is based on consent but clearly places the onus on the perpetrator – it is for him to establish that the act is consented to rather than for the victim to demonstrate consent or lack thereof. The wording is different from the “no-means-no” approach because it criminalises intercourse or any other sexual act with a person “who is not participating voluntarily”, as opposed to “against the will of a person”. The aim of this approach is to ensure that the criminal proceedings will focus on the behaviour of the perpetrator (What did he do to establish consent etc.) rather than that of the victim.** The Istanbul Convention does not specifically consider marital / date rape, but the fact that rape is committed within the relationship is considered as an aggravating circumstance under Article 46 a.



15. Sexual exploitation: “Sexual exploitation is a form of gender-based violence against women and girls which consists in the commercialisation of a woman’s body for obtaining of financial or other benefits through the involvement of another person in prostitution, sexual servitude or other kinds of sexual (or re-productive) services, including pornographic acts or the production of pornographic materials. It results in physical and psychological harm.” To this definition the absence of consent is recognised. This definition has been developed as a recommendation using the legal definition of child sexual exploitation from Directive 2011/93/EU.

16. Stalking and sexual harassment: **Stalking is ‘a persistent harassment in which one person repeatedly imposes on another unwanted communications and/or contacts’. What characterises stalking is ‘the repetitive or systematic nature of the behaviour, aimed at a specific person, which is unwanted by the targeted person’.**

In the Istanbul Convention, stalking is defined as ‘the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, is criminalised’ (Article 34). The element of fear in the crime of stalking has been reported to be quite problematic. According to some authors, without fear the behaviour might qualify as harassment and not as the crime of stalking.

Sexual harassment consists in ‘any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment’ (Article 40), without obligation of criminalisation (other legal sanctions being possible). The behaviour must be unwanted and of sexual nature, and it also must be aimed at violating the dignity of the victim and creating an intimidating environment. It is not necessarily limited to employment.



EUROPEAN WOMEN'S
LOBBY
EUROPEEN DES FEMMES

17. Stealthing: The act of a man intentionally and secretly taking off a condom during sex, although it had previously been agreed with his sexual partner that a condom will be worn: Stealthing is illegal in many countries because it is regarded as non-consensual sex.

18. Violence at the workplace: With specific regard to violence at the workplace, the 2019 ILO Convention defines: the term **“violence and harassment” in the world of work refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment;** the term “gender-based violence and harassment” means violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment (Article 1). Hence, the standard for sexual harassment and stalking consists in the identification of the elements of ‘unwanted’ behaviours which instill in the victims/survivors emotional stress or psychological violence without her consent.



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