

## ANALYSIS OF THE RISK FACTORS OF GENDER-BASED VIOLENCE AND RESILIENCE STRATEGIES OF WOMEN IN LAMU, KENYA

### ANÁLISIS DE LOS FACTORES DE RIESGO DE VIOLENCIA DE GÉNERO Y ESTRATEGIAS DE RESILIENCIA DE MUJERES EN LAMU, KENIA

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**Abstract:** According to the World Health Organization (2018), gender-based violence is a global phenomenon that affects more than a quarter of women around the world. Despite the promulgation of a multitude of regulations against gender-based violence, it is estimated that more than 40% of women who suffer violence do not report it (ONU, 1979, 2017; Unión Africana, 2005). This study aims to identify and encourage strategies to counter gender-based violence in Indigenous women of Lamu, Kenya. In this work, we adopt the social justice perspective developed by Young (1990) to ask how the gender-based violence legislative reforms of the last few years in Kenya have affected indigenous women, what resilience strategies they have developed, and whether these strategies could be integrated into institutional actions. To this end, a field study was developed in Lamu (Kenya), where we conducted in-depth interviews with indigenous women and key agents. We concluded by establishing a relationship between the lack of female participation and the barriers that still exist in gender-based violence administration that silence and revictimize indigenous women (Maqueda, 2008). We also emphasize the importance of rejecting the passive image of women and incorporating the resilience strategies they have developed in education and work (Salvador, 2015; Piotti, 2015; Hambry, 2005).

**Keywords:** Women, Gender Violence, Social Exclusion, Empowerment.

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**Resumen:** Según la Organización Mundial de la Salud (2018), la violencia de género es un fenómeno global que afecta a más de una cuarta parte de las mujeres en todo el mundo. A pesar de la promulgación de multitud de normativas contra la violencia de género, se estima que más del 40% de las mujeres que sufren violencia no la denuncia (ONU, 1979, 2017; Unión Africana, 2005). Este estudio tiene como objetivo identificar y fomentar estrategias para contrarrestar la violencia de género en las mujeres indígenas de Lamu, Kenia. En este trabajo, adoptamos la perspectiva de justicia social desarrollada por Young (1990) para preguntar cómo las reformas legislativas sobre violencia de género de los últimos años en Kenia han afectado a las mujeres indígenas, qué estrategias de resiliencia han desarrollado y si estas estrategias podrían integrarse en las acciones institucionales. Para ello, se desarrolló un estudio de campo en Lamu, donde realizamos entrevistas en profundidad con mujeres indígenas y agentes clave. Concluimos estableciendo una relación entre la falta de participación femenina y las barreras que aún existen en la gestión de la violencia de género que silencian y revictimizan a las mujeres indígenas (Maqueda, 2008). También destacamos la importancia de rechazar la imagen pasiva de las mujeres e incorporar las estrategias de resiliencia que han desarrollado en la educación y el trabajo (Salvador, 2015; Piotti, 2015; Hambry, 2005).

**Palabras clave:** Mujeres, Violencia de género, Exclusión social, Empoderamiento.

## 1. Introduction

Gender-based violence is a major global problem that is inherent to many societies. "One out of three women (36.6%) on the African continent have reported suffering physical or sexual violence committed by a person other than their partner or ex-partner" (UNICEF, 2018a, p. 30). Furthermore, this violence is not only of a sexual or physical nature. The laws of some countries still legitimate other types of violence, such as child marriage. In fact, according to UNICEF (2018b), 650 million women and girls worldwide were married before the age of 18.

Several laws on gender-based violence have been issued internationally (ONU, 1979; Unión Africana, 2005). The "Convention for the Elimination of All Forms of Discrimination against Women" (CEDAW), adopted by the United Nations in 1979, is still an applicable reference today. Kenya acceded to this Convention on March 9, 1984. On July 14, 2017, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) adopted General Recommendation No. 35 on gender-based violence against women. This recommendation stresses the need to change social norms and stereotypes that support violence in the name of culture, tradition, or religion (ONU, 2017). This international call has been welcomed in many countries and, according to a World Bank Report (2018), at least 144 countries have passed national gender-based violence laws, including Kenya (The National Council for Law Reporting, 2006, 2010, 2011, 2015).

However, violence against women is silenced globally. Despite the regulations, the data mentioned above reveal that many women continue to mistrust the institutional channels designed to end violence. The United Nations Department of Economic and Social Affairs (2015) argues that less than 40% of women who experience violence seek help of any kind. Moreover, women who seek help often turn to family and friends. Very few rely on official institutions or procedures, such as police or health services. Therefore, we must ask: what is failing at the institutional level?

This work contributes to two current academic debates. On the one hand, it shares concerns with critical feminist criminology about the risks of the punitive orientation of gender-based violence legislation, which revictimizes women and causes disaffection with the existing norms (Makau, 2016; Fischer, 1992; Maqueda, 2008; Segato, 2003). On the other hand, it adds to the recent articles that analyze and evaluate the resilience of women -where resilience is understood as the human capacity to face, overcome, and be strengthened or transformed by adverse experiences (Saleebey, as cited in Grotberg, 2009)- in response to gender-based violence (Andreu, 2017; Salvador, 2015). An important step is to recognize that resilience should allow the voices of indigenous women to be heard during the creation and implementation of norms. This is a key element of social justice:

For a rule to be fair, everyone who applies it must have the opportunity to be considered with an effective voice and must be able to agree to it without coercion. For a social condition to be just, it must allow everyone to satisfy their needs and exercise their freedom. (Young, 1990, p. 125)

In this article, we will try to answer the following questions. How have recent legislative reforms in Kenya affected gender-based violence against indigenous women in the country? How can barriers in the legislation be removed in a way that amplifies the experiences and testimonies of women? How have the indigenous women of Lamu (Kenya) developed resilience strategies against gender-based violence? Finally, how can these strategies be implemented by institutions free of domination?

Subsequently, a qualitative study is carried out focusing on a specific case. For this purpose, we moved to the island of Lamu (Kenya). Since we had made a previous stay there, the resources were already available to carry out our new project. Lamu is an island on the northern coast of Kenya, 80 kilometers from the Somalian border. It is one of the best-preserved Swahili cities in all Africa, but it is in extreme poverty (UNESCO, 2020). Our qualitative investigation was carried out during the months of June and July in 2017. In the first place, in-depth interviews were conducted in order to collect

testimonies from the indigenous women on the island. Second, semi-structured interviews were carried out with the main agents on the island about the gender-based violence institutional process.

Given the location of the present study, it is necessary to give an initial description of the research context based on national and international data and to take into account current legislation to understand the situations of the women interviewed.

According to the Gender Inequality Index published in 2016 by the United Nations, where dimensions such as reproductive health, empowerment, and labour are evaluated, Kenya ranks 135th out of 159 countries, scoring 0.565 on a scale where 1 represents the highest level of inequality. Globally, therefore, Kenya is behind in this area. Some of the representative data of this inequality are as follows. Only 20.8% of Parliament members in Kenya are women, and only 27.8% of women have received secondary education. "The maternal mortality rate is also high: 510 women out of every 100,000 die giving birth" (ONU, 2016, p. 6). Therefore, there are fewer women in the educational, labour, and political spheres, which has major consequences on economic and social inequality—especially for women, since they are considered to be at risk of suffering gender-based violence (Campbell et al., 2011).

At the legislative level, there has been a breakthrough in recent years in the field of gender violence. At the international level, we mentioned "CEDAW" above. Article 1 of this guideline defines "discrimination against women" as "any distinction, exclusion, or restriction based on sex that has as its object or result to impair or annul the recognition, enjoyment, or exercise by women" (ONU, 1979, p. 2).

At the continental (African) level, an additional protocol to the African Charter on Human and People's Rights was drawn up by the African Union Organization. This document, the "Protocol to the African Charter on Human and People, Rights of Women in Africa," was signed on July 11, 2003. It is known as the Maputo Protocol, and its objective is to guarantee the rights of women in Africa. Kenya signed the Protocol on December 17, 2003 but did not ratify it until November 6, 2010. In Article 3, entitled "Right to Dignity," the Protocol establishes a mandate for the signatory states, requiring that "States' Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence" (Unión Africana, 2005).

Subsequently, in 2006, Kenya adopted the so-called "Sexual Offense Act." This Act defined for the first time certain crimes related to sexual violence, such as rape (Article

3), sexual assault (Article 5), harassment (Article 23), or the deliberate transmission of children's diseases (Articles 13, 15, and 16) (The National Council for Law Reporting, 2006). The law condemned both marital and non-marital rape in Kenya for the first time; however, only non-marital rape is actively prosecuted in Kenya (The United Nations Department of Economic and Social Affairs, 2015).

In 2010, Kenya's new constitution was adopted, incorporating major precepts to improve women's legal status. Among them, Article 27.3 establishes the principle of equality: "Women and men have the right to equal treatment, including the right to equal opportunities in the political, economic, cultural, and social spheres" (The National Council for Law Reporting, 2010). In this Constitution, it is said that "the State shall put in place affirmative action programs designed to ensure that minorities and marginalised groups participate and are represented in governance" (Article 56) (The National Council for Law Reporting, 2010). However, no affirmative action program with that aim currently exists, except the requirement that women must constitute 20% of Parliament.

The adoption of the Constitution was a major step forward. On September 30, 2011, the "Prohibition of Female Genital Mutilation Act" was approved. This law provides clear support for the Kenyan government's rejection of Female Genital Mutilation (FGM), as it sanctions anyone who practices or collaborates in such an intervention, even if it is conducted in another country; it also condemns the possession of instruments necessary to perform FGM (The National Council for Law Reporting, 2011). However, despite the practice being banned since 2011, the government estimates that 21% of women aged 15 to 49 have been circumcised. The decline also shows positive figures: the 2009 report estimated that the population who suffered FGM used to be 50%, so there has been a 29% reduction (The National Bureau of Statistics, 2015, pp. 331–343).

It remains essential to establish measures against gender-based violence. According to national data from 2015, 39% of married women report having experienced sexual or physical violence by their partners; among these women, 14% suffered sexual violence by their partner over the last 12 months (The National Bureau of Statistics, 2015).

Due to this situation, the latest law to be passed by the Kenyan government in this area was the so-called "Protection Against Domestic Violence Act" in 2015. This law comprises a plan of action against gender-based violence, and it introduces major changes. For implementation purposes, it assimilates de facto partners with married

partners and formalizes the need to apply protective orders to victims of violence, with these victims being identified as both women and minors (The National Council for Law Reporting, 2015). After studying the most relevant legal norms, and considering that only 44% of women who experienced some form of violence had gone to an institution to report this violence (The National Bureau of Statistics, 2015), it can be said that the gender-based violence legislative reforms are not adequately managing gender-based violence problems.

The failure of the institutional strategies can be partly explained by two reasons. On one hand, there is disaffection from a part of the population with the law, which is considered "external;" it is experienced as a betrayal of their own religious and tribal norms because they were not part of the decision-making process (Young, 1990; Makau, 2016; Fischer, 1992). On the other hand, they reject the punitive and paternalistic nature of legislation against gender-based violence (Maqueda, 2008; Segato, 2003). For example, the law regulating sexual violence in Kenya (which we will come back to later) determines what constitutes an indecent act toward a woman, regardless of the woman's own will (The National Council for Law Reporting, 2006).

Faced with the punitive and paternalistic orientation of the gender-based violence legislation reforms, various feminist criminologists leading this battle have been critical. For example, Maqueda (2008) suggests that "we must be aware of the risks of stigmatizing women as vulnerable subjects: this stigma confirms the worst kind of gender stereotype" (p. 19). The author says that the legislation should not eliminate women's agency and recommends promoting their resilience strategies instead (Salvador, 2015; Segato, 2003).

After having studied resilience and gender-based violence, Andreu (2017) established that women's most widespread resilience strategies in the face of this type of violence were environmental strategies, i.e., social support (Figueroa, 2018). This author pointed out that social support plays a major role in stopping gender-based violence and in overcoming its consequences. In fact, several recent articles have begun to associate these concepts. In this regard, Salvador (2015) suggests:

The woman must be addressed in a comprehensive and flexible manner, accepting her contradictions and placing her at the heart of the therapeutic process. Notwithstanding all the help she should receive, she should be encouraged to use her own capabilities from the outset. (p. 111)

In order to recuperate women's agency in a resilience strategy, it is very important to focus on self-esteem:

Despite the suffering and evident damage that physical violence causes to its victims, it is not the most efficient and common way of reducing self-esteem, undermining self-confidence, and destabilizing women's autonomy. Moral violence, due to its invisibility and capillarity, is the way current and effective female subordination and oppression is socially accepted and validated. (Segato, 2003, p. 115)

As Andreu (2017) noted, it is essential to re-establish female victims' formal or informal support networks to help them recover and face their lives again.

As a resilience strategy, it is also important to take measures that promote women's education because education significantly contributes to fighting against a patriarchal society. In the words of Piotti (2015, p. 2), education "has a key role in giving a different picture of women's role in society." Numerous authors have found a link between educational level and gender-based violence, indicating that education is a protective factor and lack of education is a risk factor (Campbell et al., 2011; Khalifeh et al., 2013; Ruiz-Pérez et al., 2006; Van Wijk & de Bruijn, 2012; Vives-Cases et al., 2009; Vives-Cases et al., 2010, as cited in Damonti, 2019, p. 489).

Finally, we need to consider the economic empowerment of women. According to Hamby (2005), women in a situation of social vulnerability are less able to respond effectively to gender-based violence. Along these lines, Damonti (2019) indicated that women undergoing exclusion become targets of violence more easily because, as a society, we make them more vulnerable to violence. In addition, some authors (Falci, 2011; Santo et al., 2013) have established the relationship between women's economic situation and their self-esteem as a priority in developing resilience strategies.

In Lamu, in the face of legislation that is not implemented (as we will see later), there are a few local initiatives, mostly of a religious nature; there is also a Non-Governmental Organization called Afrikable in the place where our research was carried out. Afrikable's main objective is the social and economic empowerment of women. Fair trade is the cooperation tool used in order to ensure the personal and economic development of women (Afrikable, 2017). It employs more than 80 women on the island as well as fostering literacy and training in gender issues.

Finally, in this research, we try to highlight the experiences of women who are not usually heard in order to detect gaps in the legislation and find ways to improve it. By including the testimonies of these women, we will know how their lack of participation in the legislative reforms perpetuates the procedural barriers to gender-based violence

reduction and the passive image of women. Against this image, other forms of resilience have proved to be effective, such as continuing in studies, getting a job, or, in abusive situations, running away and divorcing their partners. Our study aims to satisfy the need for these resilience strategies to be considered in relation to relevant social institutions.

## 2. Methodology

This research project pursued the following objectives: to analyze the situation of indigenous women in Lamu (Kenya) who currently suffer or have suffered gender-based violence after the legislative gender-based violence reforms; to define the risk factors and institutional barriers that women still face; to identify the resilience strategies used by women to manage such violence; to determine how including the experience and testimony of women could help to remove barriers to the procedure against gender-based violence; and to explore how personal strategy can be enhanced by institutional actions that are free of domination. Although a quantitative methodology directly addresses measurable questions and applies to large samples, using a qualitative methodology allows us to "analyse the phenomena or cultural and ideological issues, ideas, opinions, attitudes, motivations, representations, and images of people regarding all kinds of issues or aspects of social life" (Garcia, 2006, p. 174).

A qualitative methodology based on content analysis of interviews permits us to learn how indigenous women understand gender-based violence and identify which elements represent a real barrier from their points of view because we can understand the structure of social processes through verbal and nonverbal language. Along these lines, Caro (2015) claims that qualitative analysis allows us to approach discourses from the "inside" and to gain access to the subjective reasons underlying social actions and behaviours.

Regarding the techniques used, in-depth interviews were conducted because, according to Benny and Hughes (as cited in Taylor & Bogdan, 1992), they constitute the preferred "digging tool" for acquiring knowledge about social life. Two types of interviews were designed: interviews addressing key agents that were designed as individual, monothematic, and semi-structured interviews (Olabuénaga, 2012), and interviews addressing indigenous women designed as individual and biographical interviews, so-called in-depth interviews, or what Olabuénaga (2012) defines as holistic and non-directive interviews.



The interviews were designed around four categories, with indicators for each category supporting a subsequent content analysis. Prior to field work and to facilitate the organization of information, we designed "a categorical system based on the objectives of this research, the categories to be studied, and the subjects of the action, whose purpose is the design of all the data collection instruments of this research" (Rodríguez, 2017, p. 282).

The categories of analysis established were: analysis of the patriarchal society in the context of the research, the situations of gender violence experienced by these women, the institutional response to gender violence and the resilience strategies that these women develop.

Finally, the three samples detailed below were selected according to the choice of different profiles to be interviewed.

**A. Key Agents:** Two Spanish women who were coordinating a Non-Governmental Organization dedicated to the economic and social empowerment of women through fair trade were interviewed in Lamu, Kenya. They naturally knew a lot about our research question, although their vision may have been ethnocentric, as it was based on different contexts. They are referred to as A.1 and A.2. The instrument applied in this case was a semi-structured interview.

**B. Key Agents in the Institutional Process:** relevant institutional actors who were acting against gender-based violence. The sample was composed of a magistrate, a public hospital social worker, the local police commissioner, and a lawyer practicing on the Island of Lamu who specialized in family matters. They were referred to as B.1, B.2, B.3, and B.4, respectively. The applied instrument in this case was a semi-structured interview.

Instruments A and B consisted of approximately 49 questions related to the categories described above. The questions asked were along these lines: Do you think violence against women is a main problem in this society? What kind of violence do you know women suffer (e.g., economic, physical, social, etc.)?

**C. Indigenous Women from Lamu (Kenya).** When selecting these women, care was taken to represent the diversity of tribes, religions, ages, and family situations. When we refer to them, we will name them from C1 to C12. The instrument used was the in-depth interview, and 12 interviews were conducted with indigenous women. Table 1 below shows some data on their social, demographic, cultural, and educational profiles. The in-depth interview model consisted of five question blocks. Of these, three

blocks are the categories previously described, one covers personal data, and another was on final conclusions. The questions follow this model: Do you consider that there are differences between girls and boys in terms of access to education? And in the time that they finish their studies? Why? What kind of violence do women suffer here? Inside the marriage? And outside the marriage?

Table 1.

*Profiles of the indigenous women interviewed*

Code	Age	Tribe	Religion	Family situation	Educational Level
C1	31	Borana	Islamic	Married, second marriage 1 daughter with former husband	Completed secondary studies
C2	32	Giriama	Catholic	Married, second marriage 2 children with former husband	Completed primary studies
C3	29	Swahili	Islamic	Divorced	Completed primary studies
C4	24	Pokomo	Catholic	Separated A son and a daughter	Had not completed primary studies
C5	27	Masai	Catholic	Married 3 Children	Illiterate
C6	55	Orma	Islamic	Widow 8 Children	Illiterate
C7	18	Orma	Islamic	Single	Studying primary
C8	45	Orma	Islamic	Married 5 Children	Illiterate

C9	37	Giriama	Catholic	Married 2 Children	Studying secondary
C10	27	Kikiyu	Islamic	Single	Studying primary
C11	22	Orma	Islamic	Single	Studying primary
C12	32	Orma	Catholic	Single	Studying primary

The research instruments were prepared and validated by people who worked in the field -such as the director of Afrikable, the Non-Governmental Organization mentioned above- and have subsequently been translated into English. Validation was essential to ensure that the questions could extract the necessary information to meet our research objectives and also that they were respectful of women, so those women could feel invited to participate rather than being objects of examination.

### 3. Indigenous Women's Points Of View: The Voices of the Research

The analysis of the interviews is presented below based on the indicators and categories mentioned above.

#### 3.1. Women's Situations after Recent Gender-Based Violence Legislative Reform

On the subject of women's participation, only 20.8% of Parliament members in Kenya are women, so they are a minority group (ONU, 2016). Moreover, there is no representation quota reserved for indigenous peoples in the legislative, executive, and judicial branches (The National Council for Law Reporting, 2010). Therefore, the participation of indigenous women in the construction of legislative reforms is very low.

The women interviewed take the fact that the majority of the people who occupy legislative power are men to imply that women are not listened to. This erases the agency of women, contrary to what Young (1990) suggested in his approach to social justice.

*Well, I think so, a lot. I think the problem is that it is the men themselves who create*

*the norms and that makes them decide for the women (C2, 32 years old, 2017)*

However, most of the women commented that they did not know anything about gender-based violence reform legislation. This can be explained by the fact that many women interviewed who had undergone gender-based violence had not advanced beyond primary school. The reason most frequently advanced for this was the lack of economic resources: education is not free in Kenya, and families prioritize male studies. Furthermore, young women are expected to take care of household chores from a very young age; the rates of gender inequality regarding education were thus very high. Indeed, only 27.8% of women in Kenya have received secondary education (ONU, 2016).

*My father gave priority to the boys to pay for high school enrollments, so I didn't finish, and my brothers did (C2, 32 years old, 2017).*

Although the women interviewed did not always have knowledge about the legislation, they knew a lot about gender-based violence: all of them were familiar with physical, psychological, economic, sexual, and social violence through their own life experiences and those of the women around them.

Nevertheless, the women did not condemn all types of gender-based violence. This is contrary to the 2015 "Protection Against Domestic Violence Act," which, in Article 3, criminalizes all these forms of violence (The National Council for Law Reporting, 2015).

They had always seen men treating women this way and learned that marriage is an almost permanent union that gives you a social status and guarantees your protection. Based on the interviews, they did not consider that any of these forms of violence constituted a good enough motive to separate themselves from their partners. Thus, women's opinions diverge from the punitive gender-based violence legislation (Maqueda, 2008).

*You expect to be hit or slapped, and you don't mention it because it's normal. Women speak of abuse only if they are abandoned or killed (A2, 33 years old, 2017).*

During the interviews, we heard different points of view on this matter. When we asked them what they would recommend to a friend who is experiencing violence, they had different opinions, though they always tried to be conciliatory and resorted to very high levels of violence to justify a separation.

*She should socialise, talk to friends and colleagues, and learn how to end the situation by seeing how others have done it. Thanks to these examples, Orma women have gone to court after suffering from violence (C1, 31 years old, 2017).*

In this context, we found that men continued to use violence against women as a means of control and as a "corrective" measure, as if they had the right to use this violence.

*It impressed me how no man showed repentance while being judged for having used violence in front of a woman (B1, Judge, 2017).*

Taking into account the disconnection between the legislative reforms and the real situation of indigenous women in Lamu (Kenya), there are many barriers that continue to be maintained in the struggle against gender-based violence (Makau, 2016; Fischer, 1992).

### **3.2. The Barriers that Still Exist in Institutional Responses to Gender Violence from the Point of View of Indigenous Women**

In this section, what is essential is the testimony of the key agent, who discussed the most relevant weaknesses of the institutional process, even after the legislative reforms.

Regarding institutional responses to gender-based violence, the police represent an institutional structure where complaints can be filed. The women interviewed did not trust the police and commented that they had almost no confidence in the police. Most pointed out that the police were corrupt and sexist and sympathized with their husbands; usually, they did not attend to the women, failing to take the reported facts seriously. The women and even the police themselves described how they sometimes accepted money from husbands and forced wives to go back home without allowing them to file a complaint.

*In some cases, the paternal families compensate the maternal families financially with animals or gifts, so that the "incident is forgotten" (B2, police, 2017).*

*When you go to the police and you tell them that your husband beat you, unless it's very serious, the first few times, nothing happens. They send you home to fix the problem privately, because you can't send your husband to jail (C2, 32 years old, 2017).*

The professionals described how most complaints received by the police went nowhere. They also remarked that police offices were not structurally designed to ensure the confidentiality these women needed to denounce their husbands. The offices are open structures offering no privacy or anonymity, attended by men with no

gender training. In accordance with what women reported themselves, these men usually tried to minimize the facts, convincing the women to give their husbands another chance and to avoid "sending them to jail;" they even laugh at them or call their families to talk it over.

*About five or six cases are reported to the police each week, but almost all cases end there: they are forced to talk to "elders" or their parents until they decide not to pursue the case (B4, lawyer, 2017).*

Thus, it is very difficult to intervene in situations of gender-based violence, as the women fear the consequences for their family and the rest of their tribe. The disaffection that exists on the part of the population in the face of these laws, which are experienced as "external," must be considered (Makau, 2016). This fact is further aggravated on the island of Lamu (Kenya), where it is a matter of preserving Swahili and Muslim cultural norms (UNESCO, 2020). That is why going to the police is experienced as betraying your own religious and tribal norms and finding yourself in the dichotomy between external civil norms and cultural norms (Fischer, 1992).

*In our culture, going to the police is bad. It is better to go to your parents to fix it (C5, 27 years old, 2017).*

The professionals who participated in the study provided discouraging data regarding the number of gender-based violence complaints. The data indicated that there had only been four gender-based violence prosecutions in the city of Lamu over the last year and a half. According to The United Nations Department of Economic and Social Affairs (2015), only 10% of the women who sought help after experiencing an act of violence did so by going to the police.

*I have decided to follow the traditional process and speak first with my family, my uncle, my grandfather, but if there had been no other solution, I would have talked with the chief and even with the police (C10, 27 years old, 2017).*

In addition, the judicial process is complicated. Even if women managed to overcome the pressures of a sexist society and the obstacles present in the police structures, they still had to face a trial that could last between three months and a year. And if they wished to have a defense that was not a state defense, they needed to have sufficient financial resources for the judicial process.

*We have to pay for our rights (C4, 24 years old, 2017).*

*Supervision to ensure a fair trial and personal support costs between 250 and 1,000 euros (B4, lawyer, 2017).*

The whole process only focuses on the reporting of gender-based violence. It does not address in any way the issues of children, property, or divorce, which are the objects of different proceedings influenced by religion at variable costs. If you profess the Islamic religion, the Islamic Court has to intervene in accordance with Islamic rules because the Constitution recognizes that “the jurisdiction of a Kadhi’s court shall be limited to the determination of questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion and submit to the jurisdiction of the Kadhi’s courts” (Art. 170.5, The National Council for Law Reporting, 2010).

*Well, if you are suffering violence, religion authorizes you to be able to divorce. You have to go to the khadi and explain what has happened. If you can prove it, you must show your marks (C11, 22 years old, 2017).*

*The Khadi only treats them as divorces; it is a reason for divorce, but it does not send cases to court. We do not connect them. Only, sometimes they condemn men to pay some compensation for the damage they have caused to their women, but do not send them to criminal court” (B1, Judge, 2017).*

The protocols and services for women who have suffered gender-based violence and are included in the Protection Against Domestic Violence Act, which offers protection orders and shelters, have not been applied in the city of Lamu, so we were not able to verify their usefulness or their impact on the community.

*It is a challenge in Lamu. I know that it exists in big cities like Nairobi, but in Lamu, it is still a challenge (B2, police, 2017).*

The key agents know of the existence of protection centers for minors in other nearby cities, but they are private facilities and members have to seek financing elsewhere. As Maqueda (2008) has stated, this clearly reveals the punitive and paternalistic nature of legislation against gender-based violence.

*We have had to send girls to protection centers, although we do not have them here. What we have to do is rescue them in centers in Malindi and Mombasa which, although private, we always try to find sponsors in religious leaders (B1, Judge, 2017).*

*For women, it is true that there is no rescue center or any type of financial support and that there was a policewoman who specialized in rape cases but was transferred to another place, I think” (B3, Social Worker, 2017).*

It is necessary to invest in implementing the resources provided in the legislation and structural support to be able to denounce violence and stop acts of violence against women. Following CEDAW's Recommendation no. 35, which says that the "state party is responsible for acts or omissions of its organs and agents that constitute gender-based violence against women, which include the acts or omissions of officials in its executive, legislative, and judicial branches" (ONU, 2017, p. 5), the government of Kenya should reconsider this situation.

Faced with legislation that is not implemented, does not incorporate the voices and testimonies of women, and confronts them with their own tribal institutions, women only have their own agency to confront gender-based violence (Young, 1990; Makau, 2016; Segato, 2003).

### **3.3. Resilience Strategies Developed by Women in Lamu to Manage Gender-Based Violence**

Several authors are starting to associate resilience with gender-based violence, describing the need to prize the resilience of women who overcome gender-based violence as well as to train those in charge of helping these women to encourage women's "empowerment" and resilience (Andreu, 2017; Salvador, 2015).

In the first place, we see how the commitment to a higher educational level works as a protection factor against gendered violence. Some women said that girls were better students because they knew their future was more heavily dependent on studies. They knew they were going to have fewer opportunities. As Piotti (2015) suggests, betting on women's education is a way of fighting against the patriarchal system, giving them the key to improving their position in society.

*Girls are weaker. Men can decide not to go to school and do something else, but if girls don't go, all they have left is to marry (C6, 55 years old, 2017).*

As a strategy of intergenerational resilience, women invest in their daughters' studies, delay child marriages, and ensure that they know their rights and can defend themselves against discrimination (UNICEF, 2018b).

*I think there are already changes like those between my two daughters: one is still studying high school and is not married, which is because I was able to help the second with my salary (C8, 45 years old, 2017).*



*I think that if you know enough it is more difficult for you to suffer violence because you have the knowledge and you know how to defend yourself from that violence; with education, there is less violence (C9, 37 years old, 2017).*

Secondly, we can talk about the economic empowerment of women. As we do, some authors (Falci, 2011; Santo et al., 2013) point to the relationship between women's economic situations and their self-esteem as a priority in developing resilience strategies. The truth is that economic violence exists within families: only 49% of women in Kenya report being able to dispose of their own salary (The National Bureau of Statistics, 2015). In the interviews, we detected multiple strategies that women adopted to maintain the economic independence they obtained from their work. For example, they kept the wages they earned from commissions on their own dresses, or they all agreed to mention a different day than the day they were actually paid to have time to manage their own salary or to make necessary purchases before their husbands knew there was money in the account. In other words, they established support networks among themselves in order to manage their own financial resources.

*I still remember when they were paid cash on hand, and how they began to keep money on different parts of their body: one part was for their husbands and another for themselves (A1, 32 years old, 2017).*

Most women interviewed indicated that their husbands were unemployed, so they were the only breadwinners of the family, gaining greater respect because of that. In these cases, husbands, despite their sexist attitude, had to respect the women's schedules and working rules, and the women had more power to negotiate family decisions. In Afrikable, for example, they were not only given a salary, but also a safe work environment where they could create support networks and receive information about their rights. This exponentially increases their agency and self-esteem, as Andreu (2017) and others have shown, and allows them to face the moral violence that Segato (2003) mentioned.

*It's a great opportunity to have a job here to help the family. My husband isn't jealous. On the contrary, he is proud because he knows there are a lot of women who need a job and I've been lucky (C2, 32 years old, 2017).*

*Orma women were treated as donkeys in Lamu. Men beat them up like donkeys. Now, they have their own jobs and can help themselves (C7, 18 years old, 2017).*

To this end, the women interviewed indicated that disposing of financial resources was essential: greater economic capacity increased women's chances of escaping from

violence. According to Hamby (2005) and Damonti (2019), the situation of social vulnerability is a risk factor for suffering gender violence due to the lack of resources.

*Had I had enough money to buy a house, I would have divorced the next day (C6, 55 years old, 2017).*

As they point out, economic and social empowerment not only opens the door to negotiation, but also offers them a way out. It makes them informed of their rights and the resources that exist, letting them accumulate enough money for an alternative plan to escape from gender-based violence and to start a new life. Several women had already done so.

*The court is not simple. I did not officially divorce, and I divorced locally, so I do not know the official process. I decided to go because my husband had nothing, did not work, did not help at all. I was fighting alone for my children, so I decided to leave (C12, 32 years old, 2017).*

Contrary to legislative reforms, which contain a punitive and paternalistic orientation, we can see women's resilience strategies as a way of managing gender-based violence. Women can focus on improving their educational levels, achieving adequate working conditions, and seeking safe women's networks and spaces (Campbell et al., 2011).

### **3.4. Possibilities for Strengthening Resilience Strategies at the Institutional Level**

Unfortunately, it cannot be said that gender-based violence has completely disappeared for these women. According to their testimonies, they all continue to suffer it, and they have faced serious obstacles to ending this violence via institutional means.

*Here, the problem is that it is a Muslim Island and there is nothing, but in other places, there is. I have even seen on television women fighting for their rights. I have seen a woman in parliament, she was saying that women should fight for positions of equality because of what is in other places, but not here (C11, 22 years old, 2017).*

In the last question of the interviews, women were asked to suggest how they would improve their situations if they had institutional power. Within the responses, we find many allusions to creating awareness and support groups. "They are responses that must transform singular pain into collective organization. An example is women's circles, collective encounters between those of us who live in situations of violence, and

the formation of territorial and institutional promoters against violence” (Figueroa, 2018, p. 40).

*Create groups of women and men to educate them, so that they know that drugs and violence should not be used (C11, 22 years old, 2017).*

*I think it would be important to talk. I would love to know how to teach women and see together the advantages and disadvantages of having a husband (A1, 32 years old, 2017).*

This participant also commented on the need to teach girls about their rights (as we have already seen), the need to economically empower women with institutions, and finally, on the need to change the law to eliminate the obstacles that we have reviewed—for example, by offering free justice.

#### 4. Final Reflections

Throughout this study, we have observed the extent to which the patriarchal system is ingrained in rules applicable since birth. Most of these rules are not written in the legal system, whether nationally or internationally. Furthermore, an objective of this work was to understand whether the latest laws against gender-based violence have any effect on society. These laws are quite advanced, but with a punitive and paternalist orientation (Maqueda, 2008). However, Lamu has not received the necessary financial support to implement convictions. No services—such as protective orders or foster homes for women having reported gender violence—currently exist. As CEDAW’S recommendation no. 35 demands, it is essential to create free public services that allow women to be protected and have a place to go if they report gender violence (ONU, 2017).

Moreover, major barriers have yet to be removed within the judicial process, as human rights organizations have been demanding for many years (Amnesty International, 2002). First, there is a lack of trust in the police, who, in most cases, have no training in gender issues and show sexist and corrupt behaviors. This means that many women who file complaints against their husbands eventually withdraw them after being convinced or forced to by the police themselves. Civil and criminal proceedings are separate, doubling legal defense costs. Services such as public defenders, or the elimination of fees, would be essential for making justice accessible.

The absence of incorporation of women's agency is one of the reasons for the lack of effective implementation of current legislation. Following Young (1990), violence, as

a form of injustice, cannot be approached with distributive parameters, but requires a much deeper questioning that affects the most basic pillars of our current societies. Only to the extent that the cultural images and stereotypes on which our daily behaviors are based are transformed can the systematic violence that daily affects members of minority groups be eliminated. "Lack of recognition of a group implies that certain groups maintain a privileged situation while others are oppressed" (p. 15). While working on this article, we learned about the reality of women in Lamu across different ages, tribes, and religions. All were continually pushing the boundaries of a patriarchal system that tried to limit each step they took.

On the one hand, we have seen how the legislative reforms have not improved the situation of the indigenous women in Lamu due to the existence of other risk factors that made them more vulnerable (Damonti, 2019), non-compliance with the rules (Makau, 2016), excessive punitiveness (Maqueda, 2008), and a lack of means to implement the resources and services provided in the rules themselves.

On the other hand, different resilience strategies (such as increasing levels of education) have been acquired that give women more possibilities to avoid children and marriage. Also, economic empowerment must be considered as a resilience strategy against gender-based violence. The combination of economic independence with a real possibility of social empowerment (including lessons on literacy, sexual and reproductive health, etc.) has been shown to increase women's self-esteem and allow them to decrease the degree of violence, improve relationships with their partners, or even be able to plan and pay for separation.

In conclusion, we believe that the stereotype of the female victims of gender-based violence should be abandoned: this portrayal leads to regarding women as passive subjects who require paternalistic norms. On the contrary, these women are strong and brave, with high spirits and great senses of humor. They are eager to learn, to make progress, and to improve their living conditions. We share feminists' demands that gender violence legislation should reflect women's "active role in the context of social relations and criminal justice, avoiding that obsessive eagerness to give women a homogeneous, passive image of victim, which limits their freedom and their subjectivity" (Maqueda, 2008, p. 53).

If they themselves could fulfill their dreams, because that is what they are, they would have dreams; each woman has her own dream. (A1, 32 years old, 2017).

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