

**Prevailing Sexism and Misogyny: A Study of Austria's Laws and Policies to Combat  
Violence Against Women**

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I, the undersigned Sophie Fegerl hereby declare that I am the sole author of this thesis. To the best of my knowledge this thesis contains no material previously published by any other person except where proper acknowledgement has been made. This thesis contains no material which has been accepted as part of the requirements of any other academic degree or non-degree program, in English or in any other language.

This a true copy of the thesis, including final revisions.

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## **ABSTRACT**

380 women have been killed in Austria since 2010, besides being the first country in Europe to adopt a law to combat violence against women in 1997. This thesis will examine the Austrian policy implementation failure and the reasons behind the high number of feminicides. Therefore, a single embedded case study will be conducted with five indicators, to measure how informal institutions like sexism and misogyny determine Austria's policy implementation. It is found that they are deeply embedded in institutions and the society as a whole, which determines flaws in the law, a lack of training for officials, a low budget together with poor practices in the police and judiciary, resulting in the high feminicide numbers.

## TABLE OF CONTENTS

ABSTRACT .....	iii
INTRODUCTION.....	1
CHAPTER 1 THEORETICAL FRAMEWORK AND METHODOLOGY .....	3
1.1 Top-Down or Bottom-Up? .....	3
1.2 The Missing Link: Informal Institutions .....	6
1.3 Violence Against Women as a Form of Gender Inequality .....	7
1.4 The Root Causes of Femicidal Violence .....	9
1.5 The Proposed Conceptual Framework for Understanding the Femicide Legislation Failure in Austria.....	10
1.6 Research Design .....	10
CHAPTER 2 THE CASE OF AUSTRIA .....	12
2.2 Femi(ni)cides in Austria .....	12
2.3 The Violence Protection Act of 1997 and its Reforms .....	14
2.4 The Lack of Training for Police and Judicial Practitioners.....	17
2.5 The Low Budget for Combating VAW in Austria .....	18
2.6 Poor Practices of the Police.....	18
2.7 Poor Practices in the Judiciary .....	20
CHAPTER 3 MEASURING THE FAILURE .....	22
3.1 The Limping Policy Framework .....	22
3.1.1 Focusing on Punishment Instead of Women .....	23
3.1.2 From Nothing Comes Nothing .....	24
3.1.3 A Drop in the Ocean.....	25
3.2 Malfunctioning in the Implementation.....	28
3.2.1 “We cannot lock-up every perpetrator that threatens to kill” .....	28
3.2.2 Between Acquittal and Discontinuation .....	30
CONCLUSION .....	33
BIBLIOGRAPHY .....	34

## INTRODUCTION

Set on fire, shot, punched, choked, or stabbed: 380 women have been killed in Austria since 2010, the majority by their partner, ex-partner, or a family member (AÖF 2022). Compared to other EU member states, the numbers are proportionally low, but when comparing general homicides with the number of feminicides, Austria is the only EU country where more women than men are killed each year (AÖF 2022; News.at 2019). In contemporary research on violence against women, however, Austria is rather unobtrusive and mostly mentioned in terms of its early legislation against domestic violence and low-threshold policies such as barring orders and temporary injunctions (Dearing 2017, 10). The United Nations even congratulated Austria for its outstanding policies and pioneer role in combating violence against women (UN Women 2014).

There are two main literature gaps, which can be identified. Firstly, policy implementation literature such as by Sabatier (1986), Matland (1995) or Hjern (1982) do not discuss gender and power extensively and are poor on explaining topics such as the implementation of measures against violence against women. Therefore, I will introduce literature on gender regimes, power dynamics and informal institutions in combination with information on violence against women and feminicides by Raewyn Connell (1978), Banaszak and Weldon (2011) and Celeste Montoya (2016) to supplement this gap. The literature provides insights into how informal institutions such as misogyny and sexism operate, something that the policy implementation literature is unable to reveal. This on the other hand, helps synthesize violence against women (VAW) literature with policy implementation literature to give more broad reflections of problems.

Secondly, regarding the literature on the case of Austria, there is much about its “pioneer role” but besides reports by NGOs such as women’s shelters and domestic violence intervention centers, there is no academic discussion on the high numbers of killed women and the

problematic implementation of policies. Therefore, this thesis addresses the gap in the policy implementation literature and the lack of discussion about the unsuccessful policies in Austria by conducting research with a gender angle on the implementation failure of VAW policies. My research objective is to explore *why the implementation of laws and policies on violence against women is unsuccessful and what is hindering it*. In this way, I shift the focus towards an issue that many countries face despite good VAW laws and policies: an implementation failure, determined by informal institutions.

To approach my research question, I conducted a theory centered embedded case study because this method allows to produce general theoretical statements beyond the case. The first chapter is a theoretical part, which examines the conceptual framework and methodology of the thesis derived from two main strands of literature: policy implementation and feminist literature on gender regimes, informal institutions and VAW. The second chapter sets up five performance indicators which guide the analysis of the implementation failure in Austria. The third chapter then introduces data for each of the performance indicators to show the malfunction of the Austrian policies, due to prevailing informal institutions.

# CHAPTER 1 THEORETICAL FRAMEWORK AND METHODOLOGY

This chapter discusses the theoretical framework and methodology of the thesis. It contributes to the policy implementation body of literature since it highlights shortcomings in top-down and bottom-up approaches in terms of gender dynamics which are crucial to explain the malfunctioning of VAW policies in Austria. Therefore, I synthesize it with feminist literature, focused on gender dynamics and how gender and power determine formal and informal institutions. The analysis of gender regimes is significant for the understanding of violence against women and femicides and their root causes, which will be discussed as well to connect the policy implementation, gender and VAW bodies of literature.

Firstly, a discussion of the policy implementation literature sketches the outlines of policy implementation from top-down, bottom-up and a synthesized perspective. Secondly, the concepts of gendered institutions and informal institutions are introduced to supplement the policy literature and highlight power dynamics. Thirdly, the concept of violence against women and femicides and their root causes is introduced. Finally, the research design of this thesis is examined.

## 1.1 Top-Down or Bottom-Up?

Over the course of the past decades, two schools of thought emerged, which have policy implementation at the center of their analysis. While the top-down school sees policy makers as the central actors, the bottom-up theory focuses on target groups and the microlevel. Both theories have been tested on empirical cases and both have their strengths and weaknesses. The following section shows that for the Austrian case, both have useful assumptions, but neither are comprehensive enough on their own to capture the factors significant for the unsuccessful VAW policies.

The initial circumstances and conditions are determining which approach to policy implementation may be more useful. While top-down approaches are practical when there is a dominant policy decision and a central institution, bottom-up approaches works well when there are a variety of actors and decisions, and none is dominant (Sabatier 1986, 32). After the starting point of an authoritative decision, top-down scholars seek to develop general advice for effective implementation. This includes that the policy should be clear and consistent, only a minimum of actors should be involved, changes avoided, and the implementation should be handled by an actor sympathetic to the policy (Matland 1995, 147). The approach is generally more focused on large and democratically elected officials such as government, to see how they deal with the target groups (Sabatier 1986, 35-36). Therefore, top-down is particularly useful when determining the effectiveness of a policy and when there is one dominant policy program (Sabatier 1986, 36).

Bottom-up scholars such as Hjern (1982), have criticized the approach for neglecting other actors which are crucial. Since top-down theorists assume a dominant actor and policy, they do not see that more actors may be significant for the implementation, such as street-level bureaucrats. Therefore, critics claim that top-down underestimated the influence of other actors. In addition to that, if the initial situation does not have a dominant actor and policy, top-down theorists may have difficulties with their predictions (Sabatier 1986, 30).

Bottom-up approaches on the other hand focus on different sub-levels and a variety of local actors, which theorists see as more relevant for policy implementation. Since policies affect people directly at the microlevel, bottom-up theorists focus on this level to see what factors are problematic for policies and may cause it to fail (Matland 1995, 149). On the contrary to top-down, bottom-up approaches work better when there are several actors and programs at the same time and to analyze interactions over time (Sabatier 1986, 34). Due to the focus on how at the microlevel the policy directly affects people, the approach works well to highlight how different actors adapt to programs. Criticism by top-down theorists concern the



oversized focus on local actors instead of democratic elected officials (Matland 1995, 149). Moreover, they claim that the bottom-up approach overemphasizes the ability of local actors influence on structure and on indirect instead of direct factors (Sabatier 1986, 34-35).

An alternative approach to the top-down and bottom-up ones is a synthesis, which takes the best features of each one (Sabatier 1986, 37). A combined approach may start with a policy problem instead of a policy decision or a law, and then focuses on the attempts of various actors in approaching the problem (Sabatier 1986, 38). This follows the bottom-up logic and helps to focus on more than just one central actor. At the same time, legal and socio-economic conditions are incorporated as top-down theorists suggest focusing on causal assumptions of programs and strategies to understand the institutions' behavior. These factors are then applied to see the change in the policy over a timeframe of 10-20 years (Sabatier 1986, 39). Such a combined approach may be more useful in explaining the policy implementation failure in Austria, since it focuses on the policy problem and the variety of actors involved, while at the same time including analysis of legal or socio-economic conditions and policy change.

In terms of analyzing gender topics, it is notable that both, top-down and bottom-up approaches were applied widely but none specifically to cases concerning issues such as VAW (Sabatier 1986, 25). The combined approach is more useful since it includes more different factors, however, gender regimes are not specifically included. When analyzing the impacts of institutions such as violence against women legislation and their implementation, it is crucial to consider their characteristics and the environment they operate in, which are not neutral. Instead, they are determined by a gender regime, which is interwoven in all types of institutions such as markets, the state, or the family (Connell 1987, 120).

The term gender regime, coined by Sylvia Walby, characterizes a system with interacting spheres of gender relationships, economy, polity, civil society, and violence. The economy is characterized by capital and labor, whereby care work is also included. Polity includes state and non-state organizations that govern in a democratic system. The third entity

is the civil society, which is characterized by projects, education, knowledge, and sexuality (Walby 2007, 420). Finally, the violence sphere includes institutions which perpetuate violence such as the correlation between militarization and high rates of homicide. In social democratic countries and gender regimes, the focus in the violence sphere is on support services for victims of domestic violence, instead of criminal justice against the offender, which is more typical for neoliberal systems (Walby 2007, 422). Austria, arguably, is somewhere in-between, with a large focus on criminal justice, but also on victim services.

Not only the gender regime of a state is crucial for policy implementation, the function and power of informal institutions is equally significant for the analysis of implementation failures such as the VAW policies in Austria (Montoya 2016, 378). For an analysis it is therefore insufficient to decide whether to choose top-down, bottom-up or a combined approach since none of them consider the significance of informal institutions such as sexism and misogyny.

## **1.2 The Missing Link: Informal Institutions**

VAW laws and policies in Austria such as the Violence Protection Act can be characterized as formal institutions that were developed by the parliament, together with other actors such as NGOs and grassroots organizations. Formal institutions can be defined as “rules and procedures that are created, communicated, and enforced through channels widely accepted as official” (Helmke and Levitsky 2004, 727). While it is important that VAW policies are designed well and that diverse actors are involved, there is more to consider. The influence of informal institutions like gender relations are often overlooked, even though they are powerful and can lead to a policy implementation failure (Banaszak and Weldon 2011, 268). Informal institutions are “socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels” (Helmke and Levitsky 2004, 727). They are perpetuated through state and society who for instance frame women as housewives or through concepts such as heterosexuality and male domination. They are transmitted through media or

education and can be sanctioned by communities for instance through violence against women when women confront gender norms. The state further promotes such institutions for instance when the executive or judiciary do not take VAW as seriously as they do other crimes (Banaszak and Weldon 2011, 268). Formal institutions are never neutral since they reproduce and perpetuate structural inequalities (Montoya 2016, 369). Therefore, informal institutions can reinforce or conflict formal institutions, leading to policy failures (Banaszak and Weldon 2011, 169).

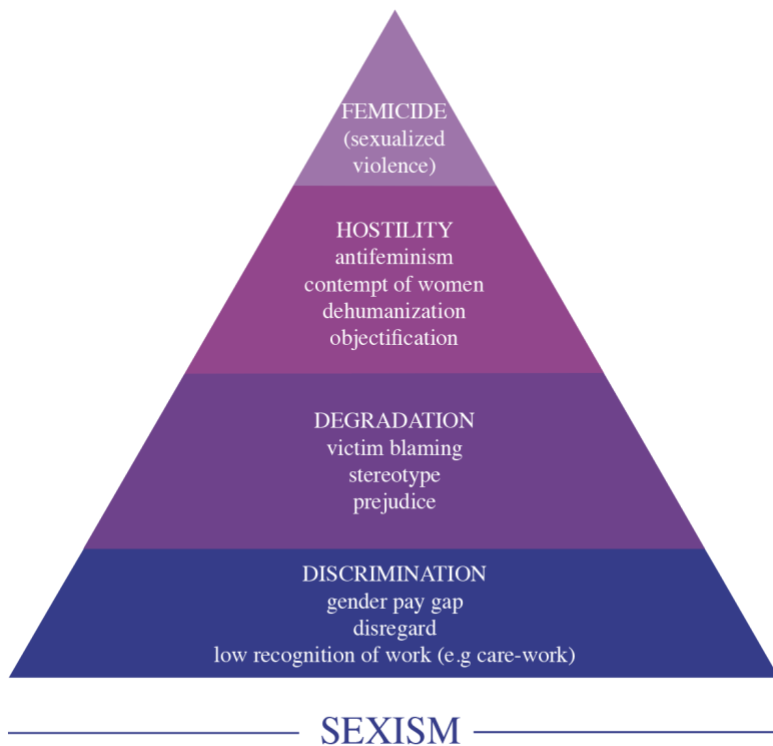
Informal institutions such as misogyny can be changed by creating more equality in formal institutions through gender quotas, education, or similar measures. However, only rarely state institutions include the concerns of women adequately, which is why in the case of Austria there is a favorable policy (formal institution) but unfavorable informal institutions as the state and society can be described as patriarchal (Hojas 2017, 97). Therefore, the study of informal institutions helps to understand their influence on formal institutions and the gap between legislation designed to eliminate VAW and the persistence of violence (Montoya 2016, 369). No matter how carefully designed VAW policies may be, unless informal institutions are targeted and transformed, they are likely to fail to achieve their goals.

### **1.3 Violence Against Women as a Form of Gender Inequality**

The root causes for gender-based violence are diverse and can be found within societal power structures. Illustration 1 serves as an overview and to highlight the dynamics and many different levels underlying VAW, reaching its peak with femicide (Manne 2018).

*Illustration 1: dimensions of misogyny*

## dimensions of misogyny



Source: Manne 2018

Four factors can be highlighted as root causes for violence against women. Firstly, structural inequalities such as the discrimination of women in the labor market put women in a disadvantaged position. As an example, it can be mentioned that women are often more dependent in relationships, making it more difficult to leave violent relationships. Secondly, traditional gender roles, which are historically determined, and traditional perceptions of masculinity legitimize violence in patriarchal gender roles. In this dimension it is a legitimate instrument of power and superiority (Manne 2018, 63). Thirdly, the devaluation of women and the male superiority leads to violence against women. In other words, **sexism** justifies and legitimizes unequal treatment, discrimination, and patriarchal exercise of power. It is manifested in all parts of the society (Manne 2018, 79). Fourthly, **misogyny**, the hostility towards women is a central aspect to keep up patriarchal structures and can range from disregard or ignorance to violence and murder of women (Manne 2018, 80). These root causes show that gender-based violence is embedded in a network of social structures, which is why violence

must be targeted politically, strategically and preventive since only if gender-based discrimination is eliminated, VAW can be eliminated too.

#### **1.4 The Root Causes of Feminicidal Violence**

As mentioned above, women challenging informal institutions such as male supremacy or misogyny are sanctioned through violence amongst other things. Therefore, to highlight and approach root causes of violence against women, informal intuitions are again significant. This is because misogyny and the oppression of women in patriarchal states are historically determined and influence formal institutions (Connell 1978, 63).

The concept of femicides emerged in Mexico due to the murders of Ciudad Juarez in the 1990s and early 2000s. Marcela Lagarde Y de Los Rios (2010, xxi) therefore invented the term femicide, to capture the killing of women and girls. Feminicides or feminicidal violence are characterized by inactions of the state, which is why depending on the context, this thesis uses both terms femicide and feminicide (Lagarde Y de Los Rios 2010, xxi). Among the root causes, according to Lagarde Y de Los Rios is that feminicidal violence flourishes under the “hegemony of a patriarchal culture” and the “sexist-macho” and “misogynist” treatment in states. She argues that violence against women and feminicides are “produced by the patriarchal, hierarchal, and social organization of gender, based on supremacy and inferiority, that creates gender inequality between women and men”. Since women are excluded from institutions and power, there male dominance prevails and actively contributes to violence against women (Lagarde Y de Los Rios 2010, xxi). These structures moreover lead to impunity of perpetrators due to the complicity of the state and institutions who neglect violence against women, fail to punish perpetrators and ultimately, fail to protect women. It means that states foster conditions that legitimate the oppression of women and violence against them (Lagarde Y de Los Rios 2010, xiii). While the author based her research on the feminicides of Ciudad

Juarez in Mexico, the informal institutions she discusses such as misogyny and sexism, are not Mexico specific, but present in any other state, including Austria (Hojas 2017, 97).

## **1.5 The Proposed Conceptual Framework for Understanding the Femicide**

### **Legislation Failure in Austria**

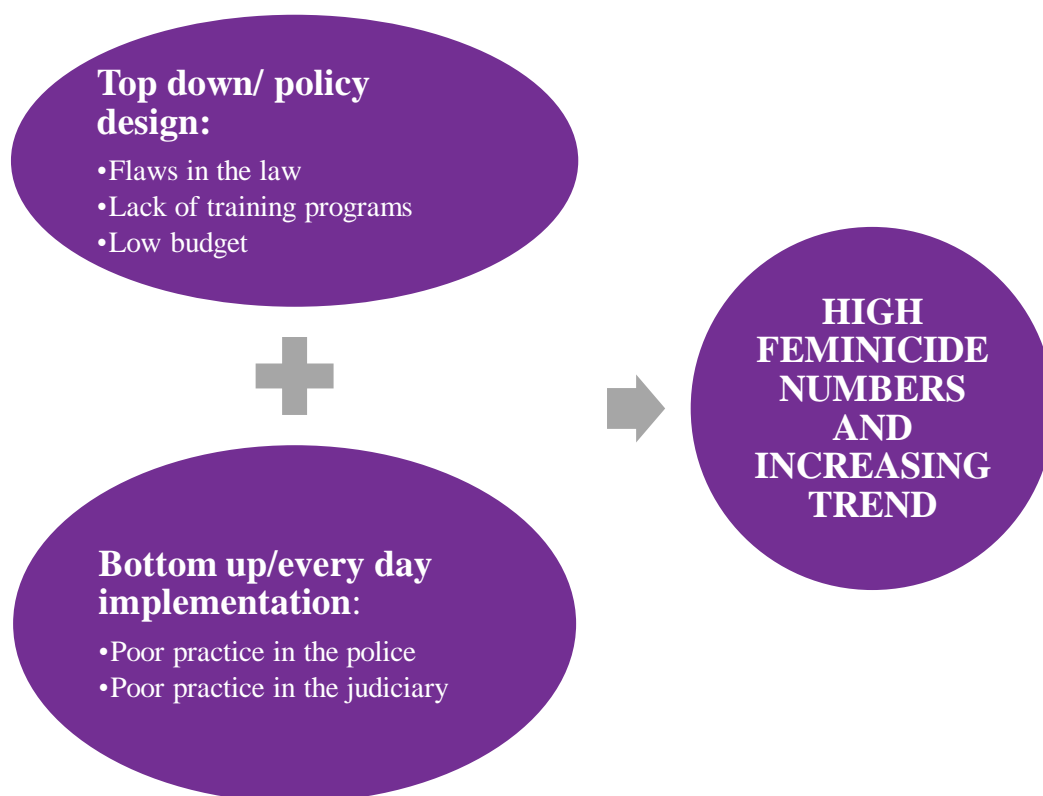
As the previous analysis has shown, the literature bodies of implementation, informal institutions, gender regimes and violence against women and bring forward several crucial assumptions to investigate the failure in Austria's laws and policies. Firstly, the discussion of the policy implementation approaches shows that neither top-down nor bottom-up are sufficient to capture a gender regime and power asymmetries responsible for VAW. Therefore, the combined approach is the most useful as it includes the best features of both approaches. Secondly, the examination of the gender literature indicates that the concepts of gender regime and informal institutions are useful to highlight dynamics that can cause laws and policies to malfunction, which are overlooked by traditional policy implementation approaches. Therefore, this body of literature is significant in analyzing the case of Austria, which is characterized by misogyny and sexism as the following chapters show. Finally, the VAW literature underlines how misogyny and sexism are the root causes for femicides, thereby closing the circle of factors and characteristics of the policy implementation failure in Austria. These three pieces of theories constitute the conceptual framework for the paper and the case study, which is introduced next.

### **1.6 Research Design**

The research design for this paper is a single embedded case study, to explain the high femicide numbers and the increasing trend in VAW in Austria. An embedded case study is suitable because my case involves two subunits of analysis, to capture the implementation

failure (Yin 2009, 50). Subunit 1 starts from the top-down level and includes imperfections in the violence protection law, a lack of training for police and judiciary and the low budget for combating violence against women in Austria. The second subunit starts with the bottom-up level, which includes one indicator each for the poor practices of the police and the judiciary in dealing with cases of VAW. These two subunits and a total of five indicators influence and are directly responsible for the high numbers of femicides and the increasing trend, which is highlighted in the discussion of the indicators in the chapter 3. The data used for this examination includes official crime statistics, budget figures, statistics and internal data by women's shelters and domestic violence intervention centers and newspaper articles to show the malfunction of the Austrian policies. The internal list with cases from the women's shelter (AÖF) cannot be added to the Annex due to anonymity and privacy concerns for the women.

*Table 1: Research Design*



## CHAPTER 2 THE CASE OF AUSTRIA

The situation of feminicides in Austria is the starting point for this chapter. Next, following the logic of a combined policy implementation approach, the performance indicators are introduced. On the first sublevel from a top-down perspective as informal institutions influence the legislation process and result in the insufficient financing of violence protection institutions and lacking initiative to train police officers and judiciary practitioners. Secondly, their influence on the everyday implementation practices of the police and judges, prosecutors, and lawyers from a bottom-up perspective are discussed.

### 2.2 Femi(ni)cides in Austria

The term femicide was invented by Diana Russell in her book “Femicide: The Politics of Woman Killing” and describes “the intentional killing a female because she is a female” (Russell and Harmes 2001, 3). The usage of feminicide or “Feminizid” in German is uncommon in Austria, “Femizid” or femicide, however, has been used more frequently in the past few years in newspapers and feminist literature (Hausbichler 2021).

To sketch the extent of feminicides in Austria, two graphs which are based on numbers from the Autonomous Austrian Women’s Shelters (AÖF) and the Vienna Domestic Violence Intervention Center (Intervention Center Vienna), give an overview of the drastic situation (AÖF 2022). These two institutions are at the core of the fight against VAW and have been active and influential in the legislation process and the founding of women’s shelter and other projects. Their work is indispensable in supporting women day by day and due the documentation and research they undertake. The police does not include the relationship between perpetrator and victim in their crime statistics, which is why the statistics by the AÖF and Intervention Center Vienna are crucial to capture feminicides since they provide this information (Logar et al 2009, 2). In general, the annual number of feminicides in Austria is



low compared to other EU countries, but when comparing them to the general number of homicides, it becomes evident that the numbers are disproportionately high (APA 2021).

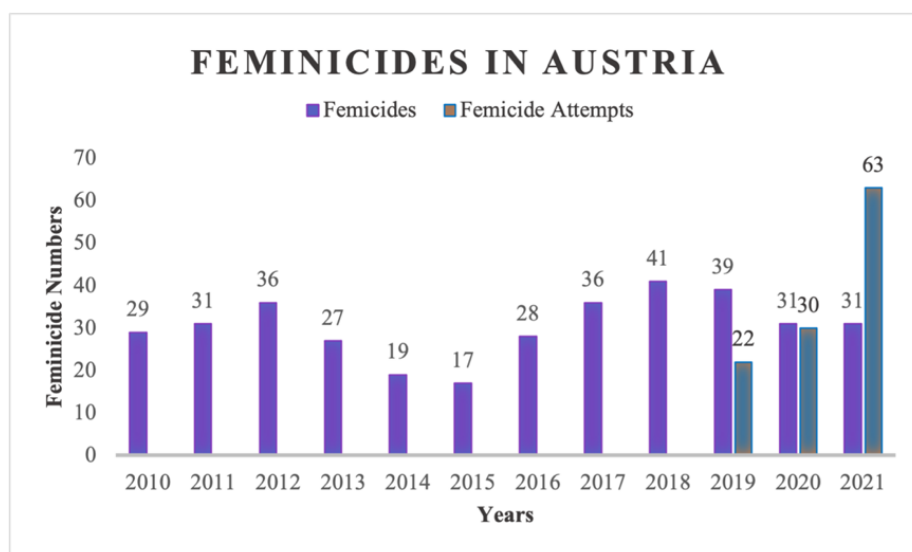


Figure 2: Femicide Numbers in Austria

Source: AÖF 2022

The first graph includes femicide numbers from the past 12 years, which indicate that the numbers are not decreasing but have doubled between 2014 to 2018 and stay on a high level. In 2022, there have been 15 femicides and 19 cases of feminicides already, sadly the numbers have to be updated every few days (AÖF 2022).

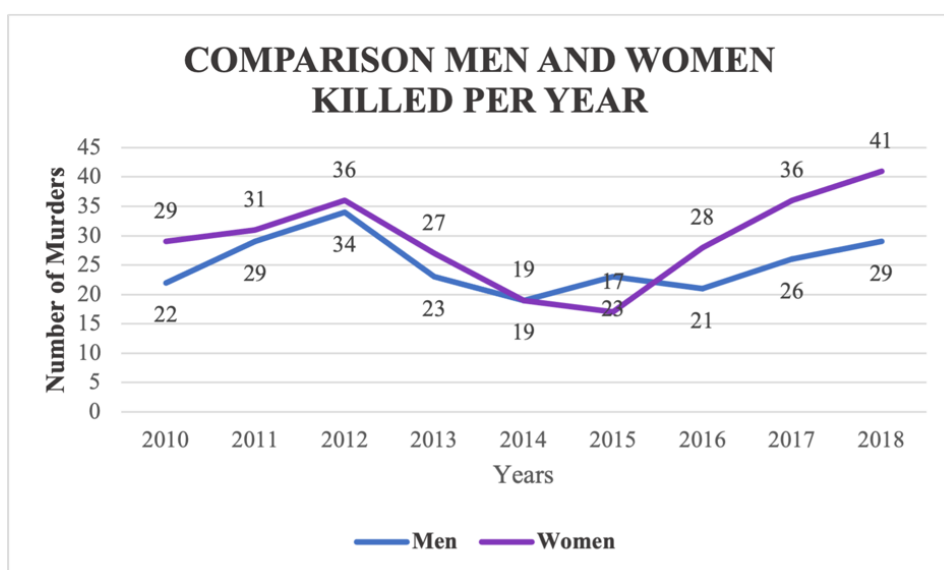


Figure 3: Homicide Numbers

Source: AÖF 2022; News.at 2019

The second graph shows that the number of women killed is, apart from 2014 and 2015, higher than the number of men. Especially since 2016, the number of men killed is significantly lower than the number of women killed every year, and the tendency is increasing. The numbers may seem surprising at first due to the early legislation in Austria and the commitment to combat VAW. Therefore, it is important to introduce the conceptual framework developed in chapter 1, to make sense of the drastic numbers and measure indicators for informal institutions of sexism and misogyny that are present on all levels.

### **2.3 The Violence Protection Act of 1997 and its Reforms**

The main legal body of victim protection in Austria was developed in 1994 after a phase of strengthening of claims for human rights, women's rights, and abortion. In a global context, the development can be situated in the context of the recommendation of the CEDAW (Convention for the Elimination of All Forms of Discrimination against Women) Committee in 1992 and the United Nations, together with the World-Human-Rights-Conference in Vienna in 1993 and the Fourth World Women Congress in Beijing in 1992 (Keck and Sikkink 1998, 166). Since the issue of VAW only came up in the 1990s on a global scale, the fact that Austria decided to pass a piece of legislation targeting VAW at that time is in fact remarkable (Keck and Sikkink, 1998:167). Between 1994 and 1997, a law was elaborated to enable police interventions by authorities in cases of domestic violence. It followed intensive exchanges of diverse institutions such as authorities and NGOs like the AÖF and the Intervention Center Vienna, two central actors in the process (Dearing 2017, 1). They were and are the most important actors representing victims and feminist viewpoints and influencing the legislator (Sorgo 2017, 24). It can be stated that the reform of the 1990s does not constitute a completed event but rather a dynamic that has continued until today (Dearing 2017, 9). It enabled state interventions and a legal basis for the protection of women affected by domestic violence and many other European countries followed the example of the Austrian Violence Protection Act (Dearing 2017, 10).

Four working-groups with a multi-institutional character worked out a law that was adopted by the parliament and came into force on May 1<sup>st</sup>, 1997, making Austria the first EU state with such a specifically targeted law (Sorgo 2017, 25). The Violence Protection Act set the groundwork for modern domestic violence prevention work and protects all affected people independent of age, gender, and relationship. It has three main goals, firstly to increase security, which means the state takes responsibility to increase the personal security of women. Secondly, violence must be outlawed, and perpetrators be penalized for their actions. Thirdly, to increase the cooperation among the network of institutions such as executive, courts, intervention centers and other private institutions (Sorgo 2017, 27). Since domestic violence is a complex social problem, it is required that the police, courts, and organizations such as the Intervention Center Vienna cooperate. This cooperation in Austria, according to the interior ministry, is an internationally recognized role model (Bundesministerium für Inneres 2022).

Regarding the content of the law, the first main component is the so-called barring order, which is regulated under §38a in the security police law and stipulates that the perpetrator must keep away from the home and cannot come close to the victim. This constitutes a large-scale improvement to the previous focus on women's shelters where women could flee to from their home. Since this law was put in place, the victims can stay at home and instead, the perpetrator is forced to leave (Gewaltschutzbroschüre 2013, 3).

Secondly, after the first intervention by the executive and the barring order, victims can apply for an extension of the barring order for two weeks and temporary injunction in cases of extreme danger for the victim and to avoid contact by the perpetrator, which is possible through increased cooperation and documentation between the police and district courts (Gewaltschutzbroschüre 2013, 4). The third main part is that the police must inform a domestic violence intervention center about the case, if required for the protection of endangered persons or for violence prevention, so that they can proactively get in touch with the victim for support and consulting (Gewaltschutzgesetz 2019).

Already ten years later, in 2007, an amendment and the Second Violence Protection Act came into force. It changed that dangerous threats are counted as such, while previously women had no legal protection from threats by their relatives or spouses (Weiss 2009, 49). Similarly, only since 2004, rape in marriage is an offence requiring public prosecution, previously that was not the case. Moreover, the length of the barring order was increased from ten days to two weeks (Weiss 2009, 50). While some reform proposals by NGOs such as the length of the barring order were included, others such as the demand for a duty for the executive to report all cases and submit them to intervention centers are still not included (Jauk 2017, 75). In general, the detailedness and focus on the victims in the law was a large-scale improvement and set a basis for effective work against VAW. With the ratification of the Istanbul-Convention in 2011, Austria further commits itself to eliminating and preventing all VAW and accept the fact that it is the result of a historically determined inequality of power between men and women and subordination of women (Hojas 2017, 96).

Despite the pioneer role of Austria regarding domestic violence legislation, in terms of equality and understanding of violence against women, there are still substantial gaps since the domestic violence legislation has not achieved a rethinking in the society (Dearing 2017, 10). An EU study shows that one in four persons in Austria thinks that VAW is acceptable and not necessarily a punishable act (Dearing 2017, 11). Moreover, Austria's gender pay gap is the fifth largest and below the average of 36.1 at 44.2 (Eurostat 2022). The minister who wanted to change the wordings in Austria's hymn to include daughters received death threats and a large-scale "shitstorm" (Hojas 2017, 97). Women who were attacked by men on the street received recommendations by the police to dress differently or dye their hair differently, hinting the prevailing sexism in the police (Hojas 2017, 97). These examples show the conservative portrayal of women in Austria, determined by paternalism and sexism.

In terms of VAW, this means that it is seen as something private, following the dominant public private dichotomy, where women are subordinated, and violence is neglected (Sorgo

2017, 19). While the laws and policies clearly pushed domestic violence to the general attention, thereby constituting favorable formal institutions, the attitude in institutions such as the police and judiciary as well as the society has not changed on a large scale. This manifests itself in the flaws in the Violence Protection Acts and the other performance indicators, which will be discussed next. It is necessary to underline that violence prevention can only succeed if a strong consensus on combating VAW in society and state responsibility are present (Dearing 2017, 11).

## **2.4 The Lack of Training for Police and Judicial Practitioners**

Specific training for police officers started already in 1988 in cooperation with employees from the women's shelters, who initiated the project. At that time, there were no women in the police (Sorgo 2017, 22). Since 1992, such trainings are a mandatory part of the police education, in 1997, it was extended to a two-day seminar, covering issues of intimate partner violence and stalking. Future extensions to a third day could enable to cover topics such as children as victims (Bucher 2017, 149, 157). The Austrian Interior Ministry, who claims to prioritize measures to combat violence against women has made serious cutbacks in 2018. The financial means for the trainers were cut, which means employees from women's shelters and intervention centers must be paid by the organization itself or do it on a voluntary and unpaid basis. The training was also reduced from 16 to 12 hours, which constitutes a large set-back (Brickner 2018). The reasons for this set back can be found in the far-right coalition Austria had in 2018. Conservative and right perspectives on violence against women generally include the framing of violence as something imported, which shifts resources to things like the border control, deportations, and police (ORF 2019).

Regarding the judiciary, general recommendation nr. 19 of the Istanbul Convention mentions that there should be intensive trainings about domestic violence for judges, lawyers, and law enforcement officials. In Austria, there is no specific or mandatory training for judicial

practitioners. During law studies, there is no mandatory part about VAW. Hence most lawyers and public prosecutors do not have specific knowledge on the mechanisms of domestic violence (Hojas 2017, 102).

## **2.5 The Low Budget for Combating VAW in Austria**

The budget Austria invests in the prevention of violence and other gender equality issues is announced annually by the women's minister. Each time, it is stated that the strengthening of support for women and girls is a priority and that the budget is increased significantly. In fact, the budget in 2020 was increased from 10 million to 12 million which constitutes the first larger increase since 2010. Between 2010 and 2020, the budget only varied between 10.15 and 10.65 million (Bundeskanzleramt 2021). While the politicians sell the budget increase as significant and bringing large-scale improvements, violence protection institutions such as the AÖF and the Intervention Center Vienna denounce it as insufficient. Instead, they state that they need a twentyfold increase of the budget to cover the expenses necessary for effective prevention of VAW (Wiener Interventionsstelle n.d.). Hence, there is a discrepancy between the demands of institutions concerned with domestic violence and victim support on the one hand, and politicians and budget promises on the other.

## **2.6 Poor Practices of the Police**

With the adoption of the Violence Protection Act in 1997, the police became an important role in combating VAW, since they are usually the first to arrive and have the duty to report and document cases of domestic violence properly. Historically determined however, violence is seen as something private and issues such as domestic violence are not portrayed as a serious threat against the state and its functioning, which led and leads to hesitance to report or intervene by state institutions such as the police (Sorgo 2017, 19). Police officers had and still have

ambivalence towards women and are not neutral but often partially identify with perpetrators (Sorgo 2017, 22). Consequently, police interventions in cases of domestic violence were often not seen as helpful by affected women (Sorgo 2017, 20). For these reasons, women's shelters have long been pressuring to include trainings for police officers regarding topics of violence against women. Today, they are a fixed and integrated part of the police education and are implemented together with domestic abuse intervention centers (Sorgo 2017, 22).

However, as chapter 3 shows, dissatisfaction with police interventions continues to overshadow the newly established measures such as trainings. The manager of the AÖF, Maria Röslhumer (Modersohn and Pausackl 2021) complains about a severe increase of dissatisfaction with the police and problematic treatment of victims by police officers. In many cases the police came but either did not inform victims of the possibilities such as temporary injunctions and barring orders, or that they did not implement these measures. More frequently, Röslhumers experience is that barring orders were issued against women instead of the perpetrator. This means that the police officers solidarize with the perpetrator and believe and see him as the victim instead. Sometimes women were even told they can file a report only with a medical certificate, which is false. This indicates that the police often do not adequately report domestic violence cases and do not adequately protect women, leading to extreme risks for victims (Modersohn and Pausackl 2021).

In terms of this inadequate risk assessment, it is moreover important to mention that there is an insufficient cooperation with other institutions such as public prosecutors, and intervention centers. The latter often complain when hearing about some cases of violence only from the media reporting and not from the police directly. The police should adequately document the situation and then forward the information to public prosecutors and intervention centers to ensure effective protection of the victim from all sides. But since it is only mandatory for cases the police views as high-risk and otherwise only recommended, they mostly refrain from it (Modersohn and Pausackl 2021). This shows that domestic violence is still portrayed as

something private, not worthy of investigating properly. Consequently, vulnerable women are left alone by state institutions who neglect their duty to protect women, since informal institutions of sexism and misogyny are present and deeply anchored in the executive (Banaszak and Weldon 2011, 268). This on the other hand causes the policies to fail in their implementation, which will be discussed in chapter 3.

## **2.7 Poor Practices in the Judiciary**

In the process of combating VAW, the judiciary in Austria has a key function, as it is responsible for extending barring orders, temporary injunctions, and for demanding pre-trial detention. The judiciary is a state institution that remains much less criticized in terms of its work than the police, as shown previously. However, it is determined by informal institutions such as sexism and misogyny to the same extent since these norms are present in the entire Austrian society and formal institutions (Kaiser 2021). VAW is not part of the judiciary education, hence the sensitivity and knowledge for this highly complex topic is limited to non-existent (Hojas 2017, 102).

In many cases instead of demanding pre-trial detention, the public prosecutor's office ordered barring orders or temporary injunctions. Thereby they substitute the measures, which is dangerous since they are meant to build on each other and jail time for a high-risk perpetrator cannot be replaced by a simple barring order (Hojas 2017, 103). All necessary measures must be taken to keep the perpetrator away from the victim, but the hesitancy by judiciary practitioners is problematic and disregards VAW. In a case led against Austria by CEDAW, Şahide Goecke was shot by her husband after years of abuse and continued failure to implement measures by the public prosecutors due to a proclaimed lack of evidence. Severe neglect by the state of Austria was found (LSE n.d.).

The high rate of dropped cases constitutes yet another substantial problem. Not only is it discouraging for women to see that their perpetrator is acquitted, but it also means that



impunity remains, thereby making the state complicit (Lagarde Y de Los Rios 2010, xiii). It has been found that around 70% of domestic violence cases are dropped due to lack of evidence and a failure to order the additional collection of evidence and not thoroughly investigate cases (Modersohn and Pausackl 2021). Moreover, the judiciary and the police keep the multi-institutional cooperation to a minimum, which means that intervention centers, police and public prosecutors are not in close contact about high-risk cases, which leads to failed risk assessments (Modersohn and Pausackl 2021). There has been a multi-agency risk assessment project (MARAC), but the public prosecution did not participate, and the police declared there was no benefit from discussing high-risk cases, hence the interior ministry stopped it (Der Standard 2018). These factors speak for the disregard of women and ultimately, persisting sexism and misogyny in the judiciary.

## CHAPTER 3 MEASURING THE FAILURE

This chapter analyzes the VAW laws and policies and their implementation in the Austrian system with the developed performance indicators. This follows the logic of a combined policy implementation approach since it focuses on the legal and socio-economic conditions, the top-down elements on the one hand, and on the attempts of various actors to solve the policy problem, the bottom-up factors on the other hand (Sabatier 1986, 39). First the indicators flaws in the law, the lack of training and the low budget are analyzed with feminist views on the Violence Protection Act and its reforms and the lack of training with recommendations from NGOs and grassroots. The discussion on the low budget includes feminist viewpoints contrasted with official governmental statements. Secondly, the poor practices in the police and judiciary, determined by the informal institutions, are highlighted with data from the AÖF and the Intervention Center Vienna together with interviews with victims of domestic abuse from a study done by feminist researchers. This emphasizes how informal institutions of sexism and misogyny influence both units of analysis and how they are causing the policy implementation to fail in Austria.

### 3.1 The Limping Policy Framework

Starting with the analysis of the Violence Protection Act, the lack of education and the low budget, this part shows the shortcomings due to informal institutions. Sexism and misogyny are present in entire Austria and influence formal institutions such as the legislation process, the implementation, and measures such as budget plans or trainings (GREVIO 2016, 9). This analysis is driven by top-down implementation literature, since it starts with the policy decision, the Violence Protection Act, its reforms, and additional measures such as training and budget.

### 3.1.1 Focusing on Punishment Instead of Women

The Austrian Violence Protection Act is poor in a sense as it does not mention the root causes of VAW at all. It seems contrary to combating VAW, when not referencing what is causing it in the first place. As feminist Sally Merry Engle (2009, 27) has once mentioned “naming a problem is essential to organize politically to do something about it”. The Act also does not contain the word women or gender, only wife is mentioned once (Gewaltschutzgesetz 2019). Austria, being a signatory state of the Istanbul Convention, also commits to ending discrimination against women such as by embodying the principle of equality in legislation (Council of Europe 2011, 3).

A reform of the law in 2019, brought about more issues. Firstly, an increase in the range of punishment for VAW was decided, which is something that is unnecessary according to victim support services. A high punishment is not helpful for victims and the maximum length of penalty was almost never exhausted anyways (Stellungnahme Interventionsstelle n.d.). The change seems irrelevant, distracting and not an actual improvement for victims or support for battered women (Kirchmayr 2019).

Secondly, the law now includes an obligation to inform the police and make a report, which is counter-productive and decreases women’s autonomy significantly. In practice, it means that doctors, medical personnel, or psychotherapists are forced to report cases of serious violence. This will effectively hinder women from reporting domestic violence cases since many victims are scared to report their perpetrator. It can also lead to women not going to the hospital with their injuries, fearing that doctors will report the case without their consent (Stellungnahme Interventionsstelle n.d.). Finally, a part of the law mentions that the police can convoke high-risk case conferences to discuss them with public prosecutors and victim support institutions. However, only the police can do so, victim support services can only encourage conferences, which means that institutions such as the Intervention Center Vienna are dependent on the good will of the police, while instead, due to their expertise, they should be

able to convoke them as well. In 2021, the police initiated one conference (Stellungnahme Interventionsstelle n.d.).

This part of the law also includes a definition of high-risk cases which is only measured according to criminal records. A case is only high-risk when the perpetrator has a criminal relevance such as an ongoing investigation. According to the Intervention Center Vienna, however, this excludes many types of perpetrators and high-risk cases and leaves out cases where no legal proceedings against the perpetrator are ongoing (Stellungnahme Interventionsstelle n.d.). Experts recommend a more comprehensive definition of high-risk cases such as for affected women with a history of violence in their relationship, women who want to end their relationship, women whose partners are seriously jealous, and particularly vulnerable women such as disabled women (Haller and Amesberger 2019, 25).

These factors show that the legislation shifts away from a victim centered approach. Through the focus on punishment, the duty to report and the focus on criminal records, the law disregards women and reproduces the social beliefs about violence since it is focused on the consequences of VAW and not on the root causes (see figure 1). This perpetuation of social beliefs on the other hand contributes to the subordination of women and the root causes of VAW (Lagarde Y de Los Rios 2010, xiii).

### **3.1.2 From Nothing Comes Nothing**

As outlined in chapter 2, training on domestic violence is a mandatory component in the police education. Moreover, there is a special voluntary training on domestic violence, leading to around 800 police officers with special expertise in Austria. This is a good starting point since education on VAW and the root causes can combat informal institutions like sexism and misogyny. However, 800 police officers with special education are not nearly enough (Zach 2019). In the past years, the mandatory training was reduced significantly and the payment for the trainers from victim support services was terminated. This shows the sexism prevailing in

the police, by deciding that the experts (women) from institutions such as the Intervention Center Vienna will not receive payment for the training (Brickner 2018). Victim support services moreover complain about large differences between the education depending on the province, due to a lack of standardization (GREVIO 2016, 35).

In terms of judiciary practitioners, as mentioned in chapter 2, a specific training on domestic violence does not exist. VAW is not part of the law studies curriculum, during the four years mandatory training there are some seminars, but they are not comprehensive enough and do not include structural inequalities (GREVIO, 36). This is dramatic since in court proceedings, it is important to have sufficient understanding of the dynamics and root causes behind VAW (see figure 1), to evaluate them accordingly. Since also the law does not include any information on this, judiciary practitioners can also not retrieve this information from the legal framework they work with (Modersohn and Pausackl 2021).

This lack of education is also represented in the every-day issues with the judiciary and combating VAW such as the high number of dropped cases that is discussed under subsection 3.2.2. In many cases of femicides, all authorities were informed and yet, no measures were implemented to protect the women in danger, which is why victim support institutions demand mandatory training for police and judiciary (Hagen 2021). Moreover, they urge that training should necessarily include the root causes such as structural inequalities and the historically determined subordination of women in order to combat informal institutions instead of perpetuating them (GREVAIO Shadow Report NGO Coalition 2016, 9).

### **3.1.3 A Drop in the Ocean**

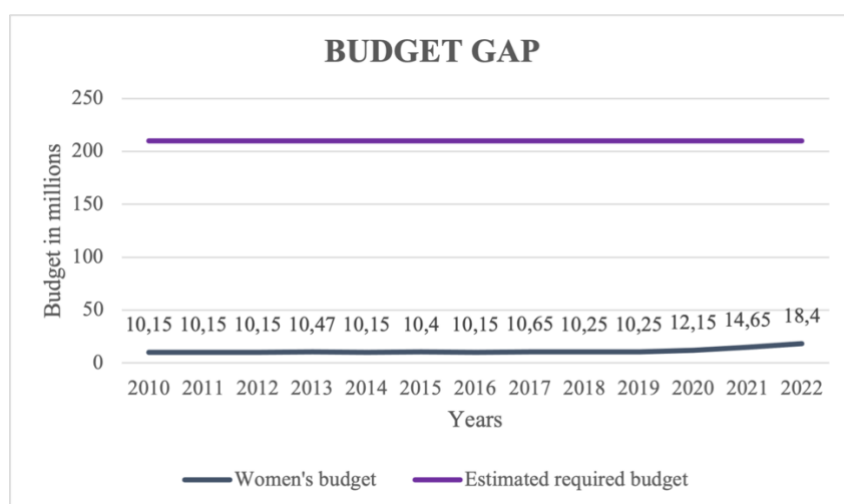
The “women’s budget”<sup>1</sup> has not been increased significantly over the past decade, despite of rising femicide numbers. The interior ministry has announced the commitment of Austria to

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<sup>1</sup> Financial means for the women and equality agenda, including violence protection.

combat VAW multiple times, however, numbers suggest otherwise. To show this, budget numbers from the women's ministry and statements by the interior ministry, Chancellor's Office, and statements by victim support organizations are introduced.

Even though, the number of femicides doubled between 2014 and 2018 (see figure 2), the budget almost stayed the same. Between 2017 and 2019, the highest number of femicides was counted, while the budget was reduced from 10.65 million to 10.25 million. In 2018, when 41 women were killed, at least thirteen women's organizations and victim support institutions suffered budget cuts by the women's ministry, underlining the neglect for the issue of VAW in Austria (Hausbichler 2018). Since 2020, there has been a continuous increase in budget, which was announced solemnly each year (see figure 4).



*Figure 4: Budget Gap*

Source: ORF 2020

The first increase from roughly ten to twelve million, came during the pandemic at an increase of domestic violence by 2.5%, the highest value in the past ten years (ORF 2020). The women's minister announced that 1.25 million should go into new projects to do "everything we can to fight violence against women and girls" (Die Presse 2020). This publicly announced commitment strongly contrasts when analyzing the increase more in depth. Since the budget was not increased in ten years, an extension of two million essentially equals the inflation loss of the past years, which means the increase is severely smaller than announced

(Arbeiterkammer Wien n.d.). Feminist voices from victim protection organizations denounced it by saying that with a two million increase one could not even buy a *mélange*<sup>2</sup> for every woman, but the women's ministry still sold the increase as a success (Die Presse 2020). Additionally, the budget of 12 million is split up by 110 institutions, making the funding of new projects and increase for current projects questionable (Horak n.d.).

The latest increase to 18.4 million was celebrated in October 2021, and the responsible minister proudly announced that in her period of office the budget was increased by 81% (Bundeskanzleramt 2021). While the women's ministry celebrated the budget success, a range of projects and initiatives lost their funding or did not receive money for months. The crisis hotline of lower Austria (Krisentelefon Niederösterreich) was stopped in August 2021, besides criticism by institutions concerned with VAW (Reiterits 2021). Moreover, the women's helpchat, a project where women affected by violence can chat instead of call, maintained by the AÖF, was told to lose its funding. For months the project was halted, for approximately three months until the confirmation of the funding came after all, forcing the consultants to work unpaid in the meantime (Zackzack 2022).

Two women's shelter in the district of Salzburg, which are part of the network of the AÖF had to close. All this happened within the pandemic during a significant rise in domestic violence cases, which made representatives of women's organizations concerned (Zackzack 2021). These events strongly contradict the success the women's ministry celebrated after increasing the budget slightly. Women's organizations have been lobbying for decades to increase the budget by 20 times (see figure 4), since studies show that to end violence against women in Austria, 210 million are necessary, which would constitute 5% of Austria's budget, compared to the current 0,015% (Arbeiterkammer Wien n.d.); (Wiener Interventionsstelle n.d.). The indicator for the budget, therefore, shows how domestic violence is not seen as a priority,

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<sup>2</sup> *Mélange* is the Austrian variation of Cappuccino.

besides public celebrating a success of a few million increase, while it is claimed that the twentyfold is necessary.

### **3.2 Malfunctioning in the Implementation**

As the previous sections show, sexism and misogyny determine the top-down elements of the Austrian VAW policies, the law itself, the lack of training and the low budget. But also, in the implementation of the law, from the bottom-up perspective, there are severe grievances that is analyzed with data from an internal list of dissatisfaction with the police from the AÖF, CEDAW cases, news reports about domestic violence cases and statements by NGOS.

#### **3.2.1 “We cannot lock-up every perpetrator that threatens to kill”**

This quotation is from the manager of the Intervention Center Vienna Rosa Logar, who states that they hear this repeatedly from the police. It is in fact wrong; since a lot can be done but in reality, it seems that the police in many cases do not act upon their duties (Logar 2017, 117). To show this and how sexism and misogyny prevail in the law enforcement, leading to the neglect of violence, an internal list with cases from documentation of the women’s helpline of the AÖF is used.

The main issues are that the measures such as barring orders or temporary injunctions are either not used at all, the victim is not informed about them or that they are used against the victim instead of the perpetrator. One case shows that a woman who was choked and punched by her husband and wanted to report the perpetrator, received a barring order and therefore, had to leave the flat while the perpetrator could stay. In another case a woman who was injured severely with concussions and hematomas all over her body was laughed at by the police officers, received a barring order and later even a weapon ban even though she was the victim and was unarmed. Another case involved a woman who suffered from long-term violence by her partner and when she finally called the police, they told the man to leave and only come



back the next day, instead of issuing a barring order against him. The women has not called the police for help ever since. The reporting of these cases was not done adequately either and victim support institutions were not informed. In many of the cases the police also attempted to implement dispute resolutions instead of barring orders or temporary injunctions, which is recommended by victim support institutions as Maria Röslhumer from the AÖF argues in an interview (Modersohn and Pausackl 2021).

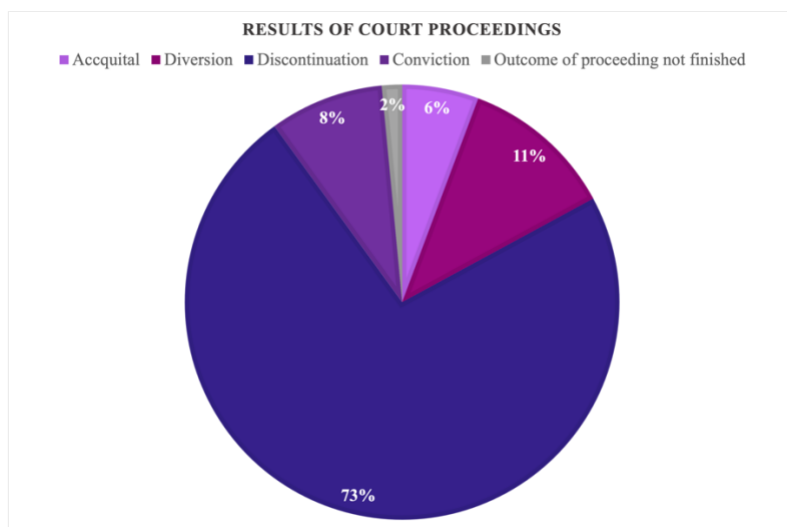
The treatment of victims as perpetrators, the inadequate reporting, and the fact that victim support institutions are not informed adequately, results in insufficient risk assessment, which is dangerous for the affected women. There have been numerous reports in the media where women were killed despite previous incidents of domestic violence. For instance, a woman was in the hospital and had her injuries treated, meanwhile the police was looking for her partner to express a barring order. While the police did not find the man yet, the women went home where her partner killed her. This case was declared high-risk by victim support services and authorities as well as women's shelters and intervention centers were informed about the dangerous man. Despite this, the authorities did not act accordingly, even though, if a perpetrator is not found, the victim needs personal protection because the chances he will go back home are very high (Modersohn and Pausackl 2021). The police, however, previously even issued a barring order against the women (ORF 2021). This lack of risk assessment and disregard for VAW is also contrary to the Istanbul Convention article 51, which states that all means must be taken to ensure effective risk assessment (Council of Europe 2011, 14). Under the CEDAW committee, two cases of femicides were brought against Austria and found failed risk assessment as in both cases, women suffered years of documented abuse while the authorities did not act accordingly (LSE n.d.).

Another reoccurring issue is that women are reported for slander or threatened by the police to be reported for it. This has been mentioned by women who were interviewed by experts for a study on women's experiences with police and judiciary (Haller and Amesberger

2019, 61). 17,2% of the interviewed women were reported for slander by the police (Haller and Amesberger 2019, 35). These are just a few of many cases, where women were not protected adequately due to failed or non-existent risk assessment by the police or are treated as perpetrators instead, showing the misogynistic and sexist character of the Austrian police.

### 3.2.2 Between Acquittal and Discontinuation

Research done by two VAW experts Birgit Haller and Helga Amesberger, including interviews with victims about their experience with judges and prosecutors, is used to point out to problems in the judiciary. As mentioned before, around 70% of all VAW cases are dropped due to lack of evidence. Numbers from the study, highlight that only in 22.9% of the cases, the public prosecutors decided for a criminal prosecution, all other cases were dismissed (Haller and Amesberger 2019, 33). This is problematic and contrary to the Istanbul Convention, which urges states to ensure effective prosecution (Council of Europe 2011, 14).



*Figure 4: High Rate of Dropped Cases*

Source: Haller and Amesberger 2019

One in two cases which were dismissed lacked evidence, according to the public prosecutors, even though, victim support services claim they could demand an additional collection of

evidence. It can also be the consequence of inadequate reporting by the police, as mentioned in the cases under 3.2.1 that there is insufficient evidence (Haller and Amesberger 2019, 61).

The acquittal or discontinuation of cases constitutes a large burden for women, making them question their decision to go to court in the first place. As one victim put it “I do not know what a person is allowed to do before he is penalized” (Haller and Amesberger 2019, 81). Most women saw the criminal proceedings as a burden and not supportive since they were frustrated about having exhausted all means to end the violence while not seeing their perpetrator penalized (Haller and Amesberger 2019, 81). Therefore, trust in the criminal justice system usually decreases after such experiences, which is dramatic since the law gives prosecutors much to act upon, but in reality, they only rarely exhaust these means (GREVIO 2016, 76). For instance, barring orders and temporary injunctions are often used instead of pre-trial detention (GREVIO 2016, 10).

Moreover, during the hearings, women’s experiences from the study show that women felt treated like criminals and not like victims (Haller and Amesberger 2019, 61). The engagement by prosecutors and judges was experienced as apathetic and unengaged since only rarely, questions were asked (Haller and Amesberger 2019, 79). Women abused by partners who are police officers are particularly vulnerable since these officers are even more rarely penalized since such cases are usually dropped by authorities. Consequently, all perpetrators and especially police officers must be penalized effectively (GREVIO 2016, 9).

This sexist treatment of women by judiciary practitioners can moreover be illustrated in the case of Green party politician Sigi Maurer, who was harassed by a man, whom she out called on Twitter for his misogynic messages. In court, she was found guilty of defamation, while the man was acquitted. A year later, sadly, the man shot dead his wife who wanted to separate from him after years of abuse (Löwenstein 2021).

These sad experiences question the Austrian judicial system since women are not adequately protected and taken seriously by judges and prosecutors. Their work is sexist and

misogynic due to the disregard of battered women and their experiences. The lack of understanding for VAW dynamics by judiciary practitioners is dangerous for women, who return to their violent relationships and simultaneously lose trust in the system, which is supposed to protect them (GREVIO 2016, 11).

## CONCLUSION

This thesis examined the Austrian VAW policy implementation failure and the reasons for the high number of feminicides. Policy implementation, gender regimes, informal institutions and VAW strands of literature guide the conceptual framework to capture the Austrian case. An embedded case study with five performance indicators was used to highlight the influence of informal institutions of sexism and misogyny, which were found to be the main cause of the malfunctioning. It was examined that the law has significant shortcomings in terms of addressing the root causes of VAW. Moreover, the lack of training for the police and judicial practitioners results in limited understanding for domestic violence. The examination of the budget showed ambivalences and that VAW is not seen as a priority in Austria. Finally, the everyday practices of the police and judicial practitioners are strongly determined by sexism and misogyny due to a general disregard of domestic violence and women. These factors contribute to the inadequate protection of women affected by violence and result in the high feminicide numbers. As scholars such as Montoya (2016) and Banaszak and Weldon (2011) have shown, the influence of informal institutions is often underemphasized, besides the policy failures they cause, such in the case of VAW in Austria. Only when sexism and misogyny are targeted within policies, involved institutions and the society as a whole, preventing and combating VAW can be successful.

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