



GBV AoR HELPDESK

Gender Based Violence in Emergencies

**Strengthening Access to Justice
for Gender-Based Violence Survivors
in Emergencies**



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Access to justice is the ability to obtain a just and timely remedy through formal or informal mechanisms. *Access to justice is a human right*, it is also key to the realization of other human rights, including the right to live free from violence, discrimination and inequality.

Introduction to Access to Justice for GBV Survivors in Emergencies

Gender-based violence (GBV) is a fundamental human rights violation rooted in gender inequality and the oppression of women and girls. GBV is prevalent across societies and cultures worldwide. An estimated 1 in 3 women and girls will experience physical and/or sexual violence in their lifetime, most often perpetrated by an intimate partner (WHO, 2017). While all women and girls are vulnerable to violence, a number of factors increase the risk of exposure to various forms of GBV. Age, disability status, race, ethnicity, sexual orientation and poverty, among other factors, can intersect to intensify risk. Alongside gender inequality and discrimination, these factors also shape the extent to which women and girls can report GBV, access care and support, and obtain justice.

GBV occurs in every context and setting, but women and girls affected by emergencies are particularly at risk. Humanitarian crises not only heighten the risk of many types of GBV, they also further limit the ability of survivors to seek protection and remedy for GBV through available legal and justice systems (GBV AoR, 2019). During emergencies, legal and justice institutions may be weakened, and governments unable or unwilling to address GBV. In some instances, legal and justice institutions may not have the legitimacy to address rights violations, in others they may not have capacity (IDLO, 2019). As evidenced by the COVID-19 pandemic, justice and other responses to GBV may be deprioritized in emergency situations (Klugman, 2020).

Enshrining and upholding women and girls' rights to be protected from violence and to access justice is a core responsibility of states and international actors, including in emergencies. Supporting survivors to safely access justice is one element of multisectoral GBV programming in emergencies. Key minimum actions for promoting justice and legal aid for GBV survivors are included in the Interagency Minimum Standards for Gender-Based Violence in Emergencies Programming (GBV AoR, 2019).

Survivor-centered justice systems offer a range of potential benefits. First and foremost, they can provide protection and remedy and support healing and recovery for GBV survivors and their families. Additionally, survivor-centered justice can:

- Uphold the human rights of girls and women.
- Contribute to ending a climate of impunity.
- Help prevent GBV by deterring further violence.
- Strengthen the rule of law, fostering a culture of accountability to individuals and communities.
- Reducing social acceptance of GBV and the silence around it.
- Reduce silence around GBV.
- Promote collective healing, truth-telling and social cohesion.
- Contribute to reparations for crimes and rights violations committed during conflict (UNICEF, 2018)

From a survivor’s perspective however, justice may serve many other purposes and being survivor-centered means recognizing that justice is multi-faceted and subjective. For some survivors, justice may be tied to conviction and punishment of the perpetrator; yet for others it may be linked to truth, dignity, or the ability to tell one’s story in a safe place. Justice can be a vehicle for empowerment or a pathway towards simply feeling happier, healthier, and reconnected to the community. It may mean being able to seek a divorce and leave a violent spouse, having somewhere to live and being able to provide for themselves and their children, or it may mean acknowledgement of the harm done to them.



The formal justice sector consists of international and domestic laws, law enforcement and justice institutions and services.

Informal justice systems encompass different types of conflict resolution and justice mechanisms that operate outside of the formal or State legal system.

In most humanitarian contexts, it is challenging to seek any justice for GBV through formal or informal mechanisms - let alone survivor-centered justice. Many of the barriers survivors face in reporting and seeking protection and remedy, stem from the fact that formal and informal legal and justice systems are often based on patriarchal structures and norms that reflect and reinforce gender inequality and discrimination (ActionAid, 2018; Stern, 2014; IDLO 2019b; Heilman, Paul-Gera, Musuya and Siebert, 2016).¹ Gender inequality and discrimination are reflected in legal frameworks that do not afford women and girls equal rights with men and boys, and/or do not adequately protect women and girls from GBV. Gender inequality and discrimination are also reflected in the low number of women represented within formal and informal legal and justice systems across the world - as law makers and law enforcers, as decision-makers and judicial officers (UN Women, UNDP, UNODC and OHCHR, 2018).

Across all settings, even when GBV is criminalized and legal protections from GBV are in place, survivors face obstacles to justice at every stage – from gender bias and discrimination when reporting to police who do not take the matter seriously or blame and shame the survivor (UN Women, 2012), to the high levels of attrition² before matters even reach court (High-level Group on

¹ As noted in High-level Group on Justice for Women, 2019, while there are matrilineal customary systems, in which women have a traditional, most are patrilineal and marginalize women.

Justice for Women, 2018; Stern, 2014; United Nations Office on Drugs and Crime, 2014). Even for those matters that do reach court, there are low levels of successful prosecution and conviction. It is well recognized that only a small proportion of perpetrators of rape and sexual assault are ever held to account for their wrongdoing (Ofosu-Amaah, Chiongson and Gandini, 2015). Further, legal processes can be disempowering, humiliating, traumatic and harmful to the healing, recovery and well-being of GBV survivors. Making a complaint and seeking justice can also put survivors at risk. This is equally true of informal justice mechanisms which often limit women and girls’ voice, agency or protection, and in which the emphasis may be on community cohesion, rather than on an individual survivor’s needs, safety, well-being and rights (Heilman, Paul-Gera, Musuya and Siebert, 2016). In the end, even if a successful legal outcome is obtained, this outcome does not necessarily support the survivor to move forward with her life. For many survivors who do manage to have their case heard, justice does not deliver anything at the end of the process (Shackel and Fiske, 2016). Due their age, social and legal status as minors, girls face even greater obstacles to accessing justice.

During all phases of humanitarian response, local and external actors can play an important role in learning from women and girls about what justice means to them, advocating for and resourcing programs that support women and girls to seek justice as they define it, as well as supporting survivors to make informed decisions about pursuing justice for GBV violations through formal or informal mechanisms and in facilitating access to services that enable them to do so safely.

Where relevant to their mandate, humanitarian actors can also invest in efforts to create survivor-centered legal norms, systems and services to overcome the challenges and barriers to justice that survivors face. Creating survivor-centered justice norms, systems and services requires GBV specialists to work in partnership with governments and with civil society organizations to establish an enabling environment; build availability, accessibility, quality and accountability of GBV-sensitive justice institutions; and providing information, resources and support to women and girls at the community level so they understand and can exercise their rights to justice.



As with all aspects of GBV programming, survivors’ perspectives, needs and preference must always be at the center of justice programming. This means asking women and girls about what justice entails for them, and ensuring survivors can access relevant resources, services and supports to safely seek justice as they define it. It means recognizing that every women and girl has the right to determine her own justice needs and how to meet them and never assuming there is a correct path to obtaining justice. Humanitarian actors, led by GBV specialists, must therefore invest in improving multisectoral and coordinated response to GBV that spans the health, social services, economic and justice sectors (Shackel and Fiske, 2016) and support local women’s organizations working to promote justice for women and girls as defined by women and girls.

² Attrition refers to the number of crimes that are committed and the number that end with the perpetrator of the offence being convicted. This gap occurs because there are a number of stages in the criminal justice process and crimes are weeded out at each stage so that the number of convictions represents only a small proportion of crimes that has been committed. See Joyce, P. and Wain, N. (2010) *A Dictionary of Criminal Justice*. London: Routledge.

The purpose of this paper is to help build knowledge and understanding about access to justice for GBV survivors in humanitarian settings and highlight strategies GBV specialists can use in programming. The information in this paper is based on review of available research and practice literature and interviews with practitioners.³ There is however limited research or practice literature on safe and effective approaches to engaging with formal and informal justice systems within response, and therefore a limited evidence base, on strengthening access to justice for GBV survivors in humanitarian contexts. Further, there is a dearth of research on women and girls’ access to and use of informal justice systems in humanitarian contexts or documented learning on good practices in engaging with informal justice systems to promote women and girl’s rights, safety, protection and remedy for GBV. Generating and sharing evidence is therefore a priority for humanitarian actors engaging in efforts to strengthen access to justice for GBV survivors.

Information in this document is organized as follows:

<p>SECTION 1</p> <p>OVERVIEW OF DOMESTIC LEGAL AND JUSTICE SYSTEMS</p> <p>provides an overview of formal and informal sources of law and justice relevant to GBV in emergency contexts.</p>	<p>SECTION 2</p> <p>CHALLENGES IN ACCESS TO JUSTICE FOR GBV SURVIVORS IN EMERGENCIES</p> <p>explores common challenges and obstacles faced by GBV survivors, drawing on literature, case studies and insights from those with experience and expertise in this area.</p>	<p>SECTION 3</p> <p>STRATEGIES FOR STRENGTHENING ACCESS TO JUSTICE FOR GBV SURVIVORS IN EMERGENCIES</p> <p>looks at good practices and strategies for strengthening access to justice for GBV survivors in humanitarian contexts.</p>
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³ Those interviewed include: Amie Kandeh (GBV, gender and justice sector specialist), Carol Angir (Senior Program Manager for Women’s Rights in Emergencies at ActionAid), Rana Aoun (GBV specialist) and Fatima Shehade (Lebanon Program Manager, Legal Action Worldwide)

OVERVIEW OF DOMESTIC LEGAL AND JUSTICE SYSTEMS

1. Overview of Domestic Legal and Justice Systems

In most contexts, there are multiple sources of law and justice—both formal and informal—that play a role in addressing GBV. The formal justice sector consists of international and domestic laws, law enforcement and justice institutions and services. Informal justice systems encompass different types of conflict resolution and justice mechanisms that operate outside of the formal or State legal system. These may include religious and customary systems, alternative dispute resolution mechanisms, and/or popular justice forums (The High-level Group on Justice for Women, 2019: 21). Different forms of GBV may be dealt with under formal and informal justice systems. It is important that GBV specialists have a good understanding of the different sources of law and justice pertaining to GBV prior to engaging in efforts to strengthen access to justice for GBV survivors.

1.1 Formal legal and justice systems

The formal justice system consists of state laws and mechanisms for enforcing them, and generally has courts at the center of that the process. Formal laws consist of legislation usually made at the national level. Different sets of formal laws influence women's lives and their ability to access protection and remedy in relation to GBV. A key aspect of strengthening women's access to justice in relation to GBV is encouraging and supporting States to establish domestic laws that uphold women and girls' rights to safety and protection from GBV and to remedy when those rights are breached in line with international norms and standards. While legal frameworks and systems for enforcing them vary significantly across countries, three common areas of law relevant to GBV include:

- **Criminal law** – Criminal law sets out what constitutes a crime and the corresponding remedies and punishments. This area of law relates to legal definitions of different forms of GBV that are considered crimes; how perpetrators found guilty of committing a crime of GBV are punished; and remedies available to survivors.
- **Civil law** – Civil law usually covers rights, procedures and remedies in the fields of personal/legal status, employment, property and inheritance. Among other issues, this area of law relates to whether women have equal access to economic resources, including ownership and control over land and other property, which can impact on their vulnerability to GBV.
- **Family law** – Family laws addresses matters related to marriage, divorce, parental rights and obligations and property and child custody rights. This area of law relates to the rights and responsibilities of husbands and wives and to custody of children when spouses separate. In some national frameworks, family laws are subsumed under civil law.

Efforts to strengthen one area of law relevant to women's rights to be protected from GBV might not be effective if other areas of law continue to discriminate against women and girls. For example, legislation criminalizing domestic violence may be ineffective if family law discriminates against women in relation to marital property, divorce, and custody of children.

Formal justice systems operate as a part of, and are funded by, the government.⁴ Courts are usually at the centre of the formal justice systems, with law enforcement agencies, including police, prosecutors and the judiciary all playing key roles, particularly in the criminal justice system (see Box 1 for information about the criminal justice system in relation to GBV).



Box 1: Criminal justice systems and GBV

The criminal justice system has a leading role in efforts to prevent and respond to violence against women. Criminal legislation sets the standards for what society deems unacceptable conduct and provides criminal justice officials with the authority to investigate, prosecute and punish gender-based crimes.

The objectives of any criminal justice system in cases involving violence against women and girls should be to ensure the victim's safety while holding the perpetrator accountable for his actions. Prosecutors have a crucial part to play in ending impunity for violence against women and girls. Vigorous and successful prosecutions can send a clear and consistent message about society's intolerance of violence against women, countering past impunity. This can contribute to transformative changes in social and cultural practices needed to eliminate this violence.⁵

1.2 Informal laws and justice systems

The vast majority of legal problems or disputes globally are resolved within informal justice systems (The High-level Group on Justice for Women, 2019; UN Women et al, 2018), and the majority of justice seekers within informal mechanisms are women (IDLO, 2020). Informal

laws consist of customary, religious and indigenous rules and practices which evolve and change over time. Customary laws are embedded in customs, traditions or rules and dispute resolution mechanisms of clans and traditional groups (The High-level Group on Justice for Women, 2019). Religious laws refer to norms that are derived from interpretations of religious texts. As described in Box 2, religious legal systems interact in different ways with statutory legal systems. Indigenous laws are similar to customary laws but are recognized by international standards related to the rights and protections of indigenous peoples and their justice systems.

Box 2: Religious legal systems

In traditional religious legal systems, law is based on religious texts and interpretations of those texts. Religious legal systems include Canon law (e.g., Roman Catholic, Anglican), Islamic law, and Talmudic (Jewish) law. Even in countries that have common or civil law systems, religious courts may exclusively hear some matters (such as those related to marriage, divorce and inheritance) for the followers of individual faiths if the country has different religious groups. Some countries incorporate some aspects of religious law into civil or common law systems, for example, elements of Hindu, Buddhist, Confucian, Islamic or Sikh laws may be incorporated into legal systems.⁶



⁴ See the Justice Module, UN Women Virtual Knowledge Center to End Violence Against Women, <https://endvawnow.org/en/articles/880-formal-justice-mechanisms.html#:~:text=Formal%20mechanisms%20derive%20their%20structure,are%20funded%20by%20the%20state.>

⁵ Excerpted from United Nations Office on Drugs and Crime, 2014; 26

⁶ Excerpted from US Department of Justice, nd.

Informal systems derive their power and legitimacy from social norms and generally serve to foster community cohesion (IDLO, 2013). At the heart of informal justice institutions are traditional leaders, community leaders and religious leaders who investigate, adjudicate and/or mediate alleged crimes and disputes. These leaders tend to be older men. Mediation is a common element within informal justice systems, with the focus on parties negotiating a resolution to a case. Mediation can be dangerous in cases of GBV, especially in cases of intimate partner violence or sexual violence. Mediation assumes that parties come to the process with equal power and resources, which is often not the case for women or girls in situations of intimate partner violence or other forms of GBV, which are rooted in gender inequality and the oppression of women and girls (Heilman, Paul-Gera, Musuya and Siebert, 2016).

Restorative justice is another common element within informal justice systems. This refers to a process through which survivors and offenders, their families and representatives of the community discuss how to respond to an offender's actions and repair relationships. Examples of restorative justice in practice include survivor-offender mediation and dialogue, peace-making circles, and sentencing circles. As is detailed in Box 3, there are a number of reasons why women may prefer to pursue a case through informal justice mechanisms. However, despite this preference, outcomes from informal justice mechanisms can be harmful and discriminatory for women and girls, as well as inconsistent (IDLO, 2020; UN Women, UNDP, UNODC and OHCHR, 2018).

Box 3: Factors influencing women's use of informal justice mechanisms



Geographic accessibility: In many cases, informal justice systems are more geographically accessible. This is especially relevant for women who often do not have the financial resources to travel longer distances to formal courts. Women are also time poor, due to limited support to assist with farming, childcare and other household responsibilities, making justice mechanisms close to home significantly more accessible. Women may also be restricted by social norms that discourage them from travelling unaccompanied or without a male family member.

Financial accessibility: Informal justice is often perceived to be more affordable than the formal justice system. Given that women generally have less access to and control over household finances than men, cost is an especially pertinent consideration.

Expediency: Informal justice is seen to provide speedier resolution of matters than formal justice systems, which can be subject to many adjournments and delays. By contrast, informal justice systems will often resolve matters within just a few sittings over days or weeks. Given women's paucity of time, this can make informal justice more appealing.

Linguistic accessibility: The linguistic familiarity of informal justice can be appealing to women as they often complete fewer years of formal education than men. This can mean that women are less comfortable speaking national languages which formal justice systems tend to operate in.

Box 3: Continued

Familiarity: The lack of familiarity with the procedures, laws and legal terminology can deter women from taking their cases to formal courts, preferring instead to bring matters to an informal justice mechanism whose procedures and laws are more easily understood.

Legitimacy: The law applied by informal justice systems can be perceived as more legitimate by some users, as it aligns with community norms about how crimes, disputes or grievances are dealt with. This can include a focus on reconciliation and restoring community harmony, rather than retributive or punitive justice, which can be perceived as further destabilizing relationships. Informal justice mechanisms frequently rely on compensation as a remedy, rather than incarceration, which is often preferred by women, depending on the crime or grievance involved.

Flexibility and tailored solutions: Finally, in some cases, informal justice is seen to provide a flexibility that formal justice systems do not. Women have thus been able to use the unwritten nature of customary law to their advantage to contest interpretations of the law and articulate alternative interpretations that offer greater rights protection than might be available under formal laws.⁷

Typology of informal justice systems

There is a wide variety of informal justice systems around the world and even within countries. They can be broadly categorized, as below, though there may be overlap between the categories:⁸

- **Traditional leaders** – These systems are usually made up of a chief and a (generally elder male) council of elders. Processes in traditional leader systems are often public, embedded within social relations, and using a process based on consensus. Outcomes from traditional justice systems are generally restorative, involving the payment of compensation and the conciliatory gestures, often from both parties. Some chiefs' courts also issue fines as punishment, and occasionally outcomes can include corporal punishment or banishment. Many traditional chiefs request a form of payment, such as cash, livestock or food.
- **Religious leaders** - Religious officials or leaders often settle community disputes and people commonly informally consult a religious leader about personal matters. More formally, a matter may be brought to a religious official for determination, although outside Islam, there are few examples of religious courts addressing matters affecting community members. Islamic law is generally considered to be one of the major world legal traditions and millions of muslims around the world rely on shari'ah courts and Qur'anic religious law to address issues related to family law and inheritance. Imams, cadis (judges) or marabouts (religious leader or teachers) are not usually members of an organized clergy, but rather are recognized community leaders. The laws and constitutions of many predominantly muslim countries formally recognize Islamic religious authorities. Outcomes from religious courts tend to have a formal ruling, although the process also usually involves reconciliation

⁷ Excerpted from IDLO, 2020, p. 9.

⁸ Adapted from IDLO, 2013.

between the parties. In general, the process is not usually public. In countries where religious courts are formal, courts charge fees, however where the system is non-state, donations may be given or expected.

- **Local administrators with an adjudicative or mediation function** – In many contexts in Africa and Asia, there are decentralized government structures with local state authority invested in elected or appointed leaders. These leaders are commonly drawn from traditional governance systems and structures. Local administrators often settle local disputes, usually without a clear legal basis - legal texts are seldom available, known or understood, and local custom generally determines and outcomes. The types of processes and the force of decisions or outcomes vary, often depending on the degree of state control and involvement, but also on the levels of literacy and the seriousness of the matter. In some countries, this role has been formalized so that local officials are formally authorized to solve disputes either through mediation or with some binding force.
- **Customary or community courts where the adjudicator is not a traditional leader** - Customary courts or community courts in this category are mandated by the state and regulated by legislation. Unlike local administrators, they do not have a broader role in local governance or administration, and may be attached to the judiciary. Community courts are led by locally elected or appointed leaders selected based on reputation, heredity, or both. They commonly draw on both customary and statutory legal frameworks, although do not use technical rules of evidence or legal representation. Procedures may be more formalized than those in traditional justice systems, but may also draw on local custom. These types of courts are generally authorized to charge fees
- **Community mediators** - In many parts of the world, NGOs train members of local communities to mediate local disputes. This is often done on an ad hoc basis with limited training and follow-up provided. Community mediation structures are usually set up by NGOs with the aim of introducing dispute resolution mechanisms that are grounded in human rights and gender equality. Mediators may be paralegals, respected community members or staff of victim support units. Mediation structures are generally embedded in the local y practices. In these systems, village mediators mediate civil cases and petty crimes in line with human rights standards and national law, though custom and ideas of equity are also likely to play a role. Mediators are trained to refer serious cases to the formal court system or to traditional leaders, depending on the case. The services are usually free.

1.3 Integration of formal and informal systems

Legal and justice systems vary from country to country and even within countries. Many countries have mixed systems, drawing on a combination of formal state laws and customary or religious laws. As shown in Box 4, mixed justice systems can take a variety of forms and include formal justice mechanisms operating alongside community or religious-based justice mechanisms.



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Box 4: Types of integrated legal and justice systems

The relationship between formal and informal justice systems can take a variety of forms, including recognition, formalization, harmonization or hybridization. The principal modalities for state and customary and informal justice interfaces are:



Recognition of customary law and actors: States may recognize customary law jurisdiction with varying conditions or levels of qualification. In the most liberal approach, a specific group is granted an autonomous legal space insulated from state interference, usually in the form of special jurisdiction. States may also recognize and regulate customary law in legislation, including the Constitution. For example, in Sierra Leone common law comprises both customary law and legislation. Local courts have limited subject-matter jurisdiction over marriage, divorce, land disputes, and minor and limited criminal cases and administer justice based on the beliefs, customs and traditions of the local inhabitants.

Incorporation into state court jurisdiction: In other approaches, customary law is recognized, but the state judicial apparatus is responsible for its application. Frequently, state courts are granted authority to adjudicate customary cases and apply customary law. For example, courts in Ghana are authorized to apply both statutory and customary laws if the latter meet the requirements of ‘equity and good conscience’ and they are not incompatible with any existing statutory law. Customary law is therefore recognized as legitimate and enforceable but subordinate to the Constitution and formal statutes.

Decentralization of state court authority to customary and informal courts: In this form, customary courts are substantially integrated or incorporated into the state court hierarchy (lower-level courts are more likely to incorporate customary law while higher-level courts are likely to rely on common and legislated law), generally with some degree of reform or regulation. Usually, the state maintains its monopoly over serious matters while customary actors hear minor criminal and civil matters. The goal is to mediate conflicts which would otherwise become severe and to reduce the burden on higher-level courts. In some cases, formal and informal systems may be distinguished based on subject matter jurisdiction and procedures. Examples of a substantial integration framework include the chief’s kgotlas (courts) in Botswana and the village courts in Papua New Guinea and the island of Bougainville.

Individual cases: Finally, state and customary and informal systems may interact at the level of individual disputes through rules providing for appeal or review by formal courts of decisions and procedures of such systems.⁹

⁹ Excerpted from IDLO, 2019a.

In some contexts, as illustrated in Box 5, religious law operates alongside customary and statutory law. In such settings, there are usually rules about which forms of GBV may be brought before different justice systems.¹⁰

Box 5: Example of integrated legal and justice systems



In Somalia there is a mixed justice system where customary, religious and state laws and mechanisms all operate. The pluralist legal system is composed of three overlapping, and at times conflicting sets of law: *xeer*, the customary legal system of unwritten conventions and procedures implemented by elders; the formal justice system, based on the colonial Italian civil law and British common law, and Islamic Sharia law applied by religious leaders. After shari'a law, the Constitution of the Federal Republic of Somalia is the supreme law of the country.¹¹ *Xeer* also incorporates aspects of shari'a, while the application of shari'a in Somalia is also influenced by customary law. Under customary law, a Somali woman who has been raped may be forced to marry her attacker. Rape is considered an issue which should be resolved between two clans who together must strive to maintain peace, protect the honour of the victim, eliminate social ostracism, and ensure full payment of dowry by the rapist's clan. In contrast, Islamic law imposes the death penalty for rape if the perpetrator is married and 90 lashes if he is not married. Criminal law, meanwhile, imposes imprisonment for the crime of rape. These three systems – customary, religious and formal – deliver three different outcomes for the same crime.¹²

¹⁰ According to the UN Committee on the Elimination of Discrimination Against Women, General Recommendation No.33, many jurisdictions have adopted hybrid justice systems in the areas of family law and domestic violence, with parties being given the choice to opt to pursue justice through informal institutions. The UN Human Rights Committee, in General Comment No.32, has recommended that informal justice institutions conform to the rule of law and due process. This is in view of the tendency for informal laws and justice institutions to provide fewer and less appropriate remedies for complainants, particular GBV survivors.

¹¹ Provisional Constitution of Somalia 2012

¹² Excerpted from UN Women, 2015

CHALLENGES IN ACCESS TO JUSTICE FOR GBV SURVIVORS IN EMERGENCIES

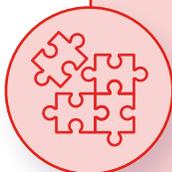
2. Challenges in Access to Justice for GBV Survivors in Emergencies

In humanitarian contexts, pre-existing gender inequalities and obstacles to justice combine with factors related to emergencies to shape how women and girls' rights to justice are valued and prioritized. For communities affected by conflict, disaster or public health emergencies, such as the global COVID-19 pandemic, accessing justice can be even more difficult due to deprioritization of GBV and disruption to law enforcement and justice systems and services, including health services, police, courts, prosecutors, lawyers and prisons (Stern, 2014; IDLO, ActionAid, 2018). Accessing justice in conflict-affected settings where the State is complicit in perpetration of GBV, such as when security forces have perpetrated conflict-related sexual violence, is particularly challenging (Seelinger and Freccero, 2015). These challenges are compounded by under-resourcing of GBV programming in humanitarian contexts, and the often short-term nature of funding and programming in humanitarian response. Justice programming requires long-term investment (UN Women and UNFPA, 2020). Other common challenges and obstacles faced by GBV survivors in accessing justice in contexts affected by emergencies are summarized below.

Inadequate and discriminatory legal frameworks and procedures

Gaps and discriminatory criminal laws. A primary obstacle to women and girls obtaining justice after experiencing GBV is that they are simply not legally protected from violence (High-level Group on Justice for Women, 2019, ActionAid, 2018). Laws are often outdated and do not recognize forms of GBV as crimes, or even at all - more than a billion women around the world do not have legal protection from sexual violence committed by intimate partners in the context of marriage (High-level Group on Justice for Women, 2019). Gaps in legal protections from domestic violence are a particular barrier to justice in fragile and conflict-affected countries, as highlighted in Box 6.

Box 6: Gaps in legal protections from domestic violence



As of 2018, 144 countries had enacted laws against domestic violence, but 21 out of 36 fragile and conflict-affected states lack such legislation, even with the tendency to pass laws during post-conflict periods. The three States with severe ongoing conflict (more than 10,000 deaths in 2017) – Afghanistan, Iraq, and Syria – do not have laws criminalizing domestic violence.¹³

¹³ The High-level Group on Justice for Women, 2019; 23

As well as gaps in laws recognising different forms of GBV as crimes, discriminatory laws are an obstacle to justice for GBV survivors. For example, in countries where sex outside marriage is a criminal offence, a woman who takes a rape case to court may herself be found guilty of a crime (ActionAid, 2018). A legal provision that exonerates a rapist if he marries the survivor is another example of a discriminatory law that prevents GBV survivors from achieving justice in some settings around the world (ActionAid, 2018).

Gaps and discriminatory civil and family laws. In many contexts, gaps in civil and family laws, as well as discriminatory laws, make seeking protection and remedy for GBV extremely difficult for survivors. This includes gaps and discriminatory laws surrounding marriage and separation, child custody and land and property rights. In 57 countries, women do not have the same rights as men to become the legal guardian of a child (The High-level Group on Justice for Women, 2019). Having no rights to custody of children is a significant obstacle to women reporting and seeking protection from GBV perpetrated by their husband as they may risk losing their children.

Discriminatory and obstructive legal and justice procedures and practices. Legal and justice processes that discriminate against women and girls are another barrier to justice for GBV survivors. For example, discriminatory rules about legal or court procedures and processes can mean that survivors can only file GBV complaints with the permission of a male relative; specify that a woman's testimony is worth less than a man's; require women to provide a higher standard of proof than men to establish an offence; or force them to give evidence in the presence of the perpetrator. In many emergency-affected contexts, procedures linked to reporting a crime, such as the requirement to report within a specific timeframe or complete a medical form prior to reporting, as shown in Box 7, further hinder survivor's access to justice.

Box 7: Procedural barriers to reporting GBV crimes

In Nepal, a major barrier to justice for survivors of sexual violence during the period of conflict and beyond was the existence of a 35-day reporting limitation from the day of the crime.¹⁴ In many contexts, rape survivors are required to have a specific form completed by a doctor prior to being able to lodge a complaint with police. In settings affected by conflict, disaster or other emergencies this can be an impossible due to the lack of trained medical personnel, lack of access to health care and even a lack of forms.¹⁵



Inadequate availability and resourcing of formal justice institutions and services

One of the biggest challenges GBV survivors face in accessing formal justice systems is the lack of physical access to relevant services (Benyekhlef, Amar and Callipel, 2015). In many countries, and especially in fragile or conflict-affected settings, there is simply no one to report to (Stern, 2014). A lack of accessible and adequately resourced police stations, legal services, courts and justice professionals can make it impossible for GBV survivors to make complaints to police or other authorities and have their matter investigated. The lack of infrastructure and resourcing of justice sector institutions and services is exacerbated in emergencies, as illustrated in Box 8, and healthcare providers and police are overwhelmed with emergency response, and are less able

¹⁴ Swaine, Spearing, Murphy and Contreras, 2018

¹⁵ Seelinger and Freccero, 2015

to manage the complicated examination and investigation processes that GBV cases can require (Seelinger and Freccero, 2015). In many post-conflict settings, existing justice infrastructure may be overwhelmed by the sheer number of cases (Swaine, Spearing, Murphy and Contreras, 2018).

Box 8: Impact of conflict on justice services in South Sudan and Liberia

Years of war have had a devastating effect on South Sudan's justice sector. Much of the limited court infrastructure that existed before the war was destroyed as chronic insecurity prevented development, legal education, and the formation of an effective legal system. As a result, South Sudanese women have had limited recourse to the formal justice system and have relied almost exclusively on traditional courts. Similarly, in Liberia the statutory legal system basically ceased during the period of conflict in the 1990's and early 2000's, and people were left with the customary legal system that was enacted in the local communities across the country.¹⁶



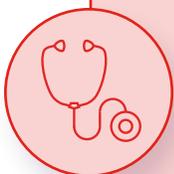
Refugee and internally displaced women and girls who face restrictions on their movements or are living in remote or marginalised areas can find it particularly difficult to physically access justice services (Stern, 2014). For women and girls who have to travel to report GBV crimes or to attend court the costs of transport and time away from economic, domestic and childcare responsibilities can be prohibitive (Swaine, Spearing, Murphy and Contreras, 2018). In some contexts, there may also be significant security risks associated with travelling.

In addition to challenges with access to relevant justice services, to be able to report GBV and participate in justice processes, survivors

need access to a range of other relevant services. The availability of health services, legal aid, psychosocial support and safe shelter may determine whether GBV survivors can participate in justice processes in emergency contexts (Stern, 2014). In settings where there is no free or affordable legal advice and representation, or no options for safe accommodation, survivors are less likely to seek remedy for GBV through justice systems. Some of the challenges in health sector response to sexual violence in conflict-affected contexts are outlined in Box 9.

Box 9: Challenges in health sector response to sexual violence

The health sector plays a critical role in the documentation and collection of evidence for GBV cases, and especially sexual violence cases. Health workers are responsible for documenting a survivor's physical condition and collecting physical evidence from the survivor's body. However, the role of healthcare providers in documenting sexual violence for accountability purposes is rife with challenges. Healthcare workers do not necessarily have an "evidence-collection" mandate and are often not sufficiently equipped or trained to do so. Healthcare workers' coordination with the police to transfer information or evidence is sometimes a further challenge. During conflicts in Sierra Leone, Uganda, Kenya and Liberia, the health sectors' capacity to provide care for sexual violence survivors was curtailed by the limited number of skilled providers in conflict-affected area and lack of training, equipment of procedures for documenting and collecting evidence.¹⁷



¹⁶ Shai, Divon, Sayndee and Boås, 2016

¹⁷ Seelinger and Freccero, 2015

Discriminatory practices and lack of accountability within informal justice mechanisms

As illustrated in Box 8, disruption to formal justice systems and community preference mean that GBV survivors in emergency-affected contexts are often far more likely to use informal justice mechanisms when seeking protection or remedy for GBV (IDLO, 2019a; Heilman, Paul-Gera, Musuya and Siebert, 2016; Stern, 2014), even when these systems are not mandated to address GBV or do not prioritize survivor's safety, well-being and rights (Heilman, Paul-Gera, Musuya and Siebert, 2016). While informal mechanisms are usually more affordable and accessible for women and girls, GBV survivors face particular challenges within informal justice processes and outcomes.

Social and gender norms significantly shape responses to GBV within informal justice systems, and shapes women and girl's access to these justice mechanism. Where social and gender norms are restrictive, informal justice mechanisms are less likely to reflect women's rights or equality or afford them protection from GBV than contexts where social and gender norms are more permissive. As with formal justice systems, religious and customary laws and practices are grounded in patriarchal social relations, and informal justice



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processes that typically reflect social and gender norms that condone GBV, gender inequality, and victim blaming (Stern, 2014). For example, within customary laws, it may be acceptable for women to be beaten by their husbands for going out without permission, burning a meal or refusing sexual relations.¹⁸ GBV survivors may be pressured to use informal justice systems and to accept decisions that are not in their interests and that further violate their human rights. For example, women who do not accept outcomes from customary courts in domestic violence cases, such as apologizing to the perpetrator, may be thrown out of their husband's home, unable to return to their parents due to the requirement to repay the dowry, and therefore homeless. Survivors may therefore not be afforded protection from further GBV or remedy for the violence they have experienced. Additionally, informal systems often center on compensation for families rather than the safety and well-being of the survivor. Efforts at reconciliation common in informal justice can also violate a survivor's rights—such as when a survivor is forced to marry the man who raped her (IDLO, 2019a).

Patriarchal social norms, practices and attitudes

Social norms that blame, shame and stigmatize survivors can prevent women and girls from ever disclosing GBV to anyone, including authorities (Seelinger and Freccero, 2015). Making a formal complaint or pursuing a matter through either a formal or informal court can lead to a woman being excluded from her family and losing custody of her children. Even where there is a supportive

¹⁸ IDLO 2020

legal framework in place for responding to GBV, if legal norms and policies are not complemented by supportive social norms and attitudes, enforcement of legal protections and remedies can be extremely difficult. For example, the legal stipulations in Islamic marriage contracts can be empowering to women who are entitled to negotiate aspects of the contract (Quraishi-Landes 2013),¹⁹ however, in many contexts women aren't aware of these provisions within the law or able to exercise them. Social norms that pressure women or girls to resolve GBV matters through customary or religious institutions can be a barrier to survivors use of formal justice systems to seek protection from GBV or to seek remedy (The High-level Group on Justice for Women, 2019). Social norms surrounding GBV also lead to discrimination and bias from police and justice sector personnel and actors within informal justice systems towards GBV survivors (Carrington, Guala, Puyol and Sozzo, 2019). Harmful attitudes and biases impact survivors' interactions with formal and informal justice personnel, and the handling and outcomes of GBV complaints.

Inadequate knowledge of laws, rights and justice options and processes

Women and girls are unable to claim their rights to legal protection and remedy if they are not empowered with information about those rights and processes for claiming them. Lack of information about rights and protections from GBV under relevant bodies of law, formal and informal (The High-level Group on Justice for Women, 2019); about how the systems operate; the pros and cons of pursuing a matter through each system; and awareness of the possible outcomes (Seelinger and Freccero, 2015) are significant barriers to survivors being able to make informed decisions about whether and how to use justice mechanisms to protect themselves from violence, or to seek remedy after it has occurred. A lack of child-friendly information creates a particular obstacle for girls. In humanitarian emergencies, those displaced across borders—including refugee, migrant and asylum-seeking women and girls—may have even less access to information about their legal rights and options due to language or other communication barriers. Women with low literacy levels and with no or limited access to technology are at even greater disadvantage.



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Economic barriers to justice

In addition to financial costs associated with travelling to make a GBV complaint or attending court, there are many other costs associated with formal justice processes that make justice unaffordable for women. These can include fees for medical examination and obtaining a medical certificate, paying costs associated with police conducting investigations, hiring lawyers, court fees, paying for witnesses to attend court, loss of income when attending court, and so on.

¹⁹ Asifa Quraishi-Landes 2013, https://www.ispu.org/wp-content/uploads/2016/08/ISPU_Brief_WmnEmpwrmnt_619.pdf

While less prohibitive, economic barriers can also impact women's ability to access informal justice systems. For example, women may be less likely to bring a complaint of domestic violence to a customary court in settings where this may mean their parents would need to repay their dowry. Economic barriers facing GBV survivors are even more acute in settings affected by conflict or disaster, where women and girls experience even higher levels of economic disadvantage.

Safety risks

GBV survivors can face serious risks to their physical and psychological safety and well-being when they disclose their experiences. These risks may be magnified if survivors report GBV to state or customary authorities and seek accountability for violations, as perpetrators - whether abusive husbands, relatives, community members or others in positions of relative power - may use threats and further violence to pressure or intimidate women and girls into withdrawing allegations or not giving evidence in court. Safety and security can also be an issue for lawyers and witnesses (LAW, 2014).

As well as the risks of retaliation for speaking out, legal processes can create psychological safety risks. Formal and informal legal processes can be disempowering, humiliating, and traumatic for survivors. Formal legal proceedings often require survivors to retell their experience in unsupportive and unsafe ways (Herman, 2005), and may be required to endure public challenge to their testimony (Herman, 2005). In informal systems, survivors may have no voice at all.

As illustrated by the example in Box 10, justice mechanisms that do not adopt a survivor-centered approach can further harm GBV survivors by re-traumatizing them when giving evidence about their experiences of GBV, and expose survivors to retaliation from perpetrators (UN Women, 2012).

Box 10: The experience of women testifying in Rwanda's transitional justice system

Rwanda established 'gacaca courts' when the ICTR and domestic courts struggled to process the sheer number of human rights violations that emerged in the wake of the genocide. Reclassifying sexual violence crimes to a less serious crime meant they were able to be heard in gacaca courts, which were public hearings presided over by traditional leaders that required survivors to come face-to-face with perpetrators and testify before other members of the community (Human Rights Watch, 2011).



A survey of women who testified in the gacaca courts found that women survivors faced harassment and threats, before, during and after they testified.²⁰ Survivors were intimidated in the courtroom, where families of the perpetrators were often present. Women also reported re-traumatization, ill-health and isolation as a result of giving evidence at the courts. Women found it traumatic to relive the experiences again, and felt ashamed when they reacted emotionally in front of the public.²¹

²⁰ Brouneus, 2008

²¹ Adapted from UN Women, 2012

Particular barriers facing girls

Girls face the same social, structural, economic and practical barriers to justice that adult women face. However, in addition to challenges due to being female, girls face additional barriers to justice because they are children. These barriers are embedded within children's legal and social status and within cultural and social relations. Common barriers to justice girls experience because they are children include (Liefwaard, 2019; Human Rights Council, 2013):²²

- Justice systems are complex making them difficult for children to understand and access. Children are often unaware of their rights and protection and remedies available when those rights are breached. They do not have information about the existence of relevant laws, systems, services to help them, or about where or how to get advice and assistance.
- Formal and informal laws and legal procedures do not reflect children's rights, such as the right to participation, and often actively discriminate against children.
- Formal and informal justice systems and procedures are not child-sensitive or child friendly and are often intimidating for children. Compounding this is the lack of specialized or trained judges, prosecutors, lawyers and other relevant personnel to work with children.
- It is often culturally and/or socially unacceptable for children to lodge complaints and claim redress through formal or informal justice systems. Doing so can place children at risks of reprisal, including violence, intimidation, exclusion and ostracism.
- GBV is also often considered a fact of life rather than a rights violation, and commonly perpetrated against girls by members of their family or by someone known to them, making it even more challenging for girl survivors to even disclose violence, let alone bring a matter before a formal or informal justice mechanism. .
- Due to their dependent status, children often have no capacity to act without their parents or legal representatives, and therefore access to justice for children depends on the support provided by adults. Added to this, parents and other caregivers may not be aware of children's rights in relation to GBV or know how to best support their children.

Particular challenges facing refugee, asylum-seeking, and migrant women

As noted already, refugee, migrant and asylum-seeking survivors can face significant obstacles to justice. These obstacles include lack of access to information about their rights under foreign legal systems, language barriers, fear and distrust of authorities, high levels of economic hardship (Field, 2018). Women and girls displaced across borders may also face pressure from family members and communities to not report GBV or to rely on community-based dispute resolution mechanisms in order to avoid interaction with authorities (Stern, 2014). Another significant barrier to justice for women and girls displaced across borders is their legal status. Reporting GBV to authorities may not be an option for unregistered or undocumented women and girls, such as irregular migrants and asylum-seekers because of risks associated with imprisonment and/or forced repatriation, as Box 11 highlights.

²² Liefwaard, 2019; Human Rights Council, 2013 https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-35_en.doc

Box 11: Legal status as a barrier to accessing justice for Syrian refugee women

One of the main reasons some refugee women in Lebanon cannot access justice through formal mechanisms is their lack of a valid residency permit. This may be because either the permit has expired and the costs to renew it are prohibitive, or because a permit was never obtained in the first place. Syrian refugees in Lebanon who do not have a valid residency permit are considered to be in breach of Lebanese law. This exposes them to human rights violations, including arbitrary arrest, detention and deportation, and inability to seek redress from authorities if they are a victim of crime due to fear of arrest, limitations on movement and difficulties in accessing services such as education or health.²³

**Specific challenges in public health emergencies**

As with other emergencies, public health emergencies not only increase risk of GBV, they also further reduce women and girls' access to justice for GBV. Social distancing and other restrictions implemented due to COVID-19 are exposing women to higher rates and severity of intimate partner violence while at the same time constraining their access to GBV support services, including legal and justice responses (GBV AoR, 2020). Box 12 provides an overview of challenges facing the justice sector as a result of COVID-19.

Box 12: Challenges faced by police, prosecution services, the judiciary and other parts of the criminal justice system during the COVID-19 outbreak

Resources are being diverted away from the criminal justice system towards more immediate public health measures to deal with COVID-19.

Police and other law enforcement agencies have less time and human resources to respond to incidents of GBV, may lack specific plans on how to respond to such incidents during the emergency and are likely to shift priorities towards enforcing quarantine, monitoring social distancing and other related measures. In countries with weak rule of law and existing economic constraints, the focus may also shift towards responses to public unrest, looting and other crime that may increase as a result of economic and social consequences of the responses to COVID-19.



In many countries, judicial proceedings are suspended and/or postponed, which impedes immediate judicial protection (e.g. issuance of emergency or interim measures like protection and restraining orders) and creates a backlog of cases that affects the effectiveness and quality of criminal justice responses to GBV in the long run.

²³ HRW, 2015

Box 12: Continued

Other services, such as hotlines, crisis centers, shelters, access to a lawyer including through legal aid, and victim protection services may also be scaled back or closed, further reducing access to the few sources of help that women in abusive relationships might have. Due to the lockdown policies in place, women and girls may have more difficulties in accessing police stations for promptly reporting cases of GBV and seeking judicial and other forms of protection. They will also find it more difficult to place phone calls to report violence or access hotlines as they live 24/7 with their abusers and have no privacy to make such phone calls.²⁴

²⁴ Excerpted from United Nations Office on Drugs and Crime, 2020: 2

STRATEGIES FOR STRENGTHENING ACCESS TO JUSTICE FOR GBV SURVIVORS IN EMERGENCIES

3. Strategies for Strengthening Access to Justice for GBV Survivors in Emergencies

This section overviews promising strategies for strengthening access to justice for GBV survivors in emergency-affected contexts. It first looks at good practices for GBV specialists to follow when implementing strategies for strengthening access to justice for survivors in emergencies, and then turns to promising strategies identified in available literature and evidence.

3.1 Good practices

The following good practice principles are offered to assist GBV specialists engaging in programming to strengthen access to justice for GBV survivors.

1. **Do no harm.** Always carefully consider ethical concerns and potential unintended consequences before engaging in justice programming. The decision about whether and how to engage in programming to promote access to justice should be based on careful consideration and assessment of ethical and safety dimensions of programming, considering programme timeframes, resources, agency mandate and expertise. For example, it may not be ethical to offer support to GBV survivors to access justice as part of a short-term emergency intervention, or to collect testimony or evidence about GBV-related human rights violations if doing so is not within the agency mandate or area expertise. Humanitarian actors should never collect or share information about GBV survivors outside of the context of delivering services with survivor consent.
2. **Understand the context and tailor programmes carefully.** There is significant variation in formal and informal legal and justice systems and mechanisms within and across countries and contexts. Customary justice systems in particular are extremely diverse (Heilman, Paul-Gera, Musuya and Siebert, 2016), encompassing a significant range of practices, institutions and traditions (IDLO 2020). It is therefore essential to carefully analyse the context, understand the specific characteristics of a particular informal justice system, including the social norms surrounding it, and tailor programming to the local circumstances, priorities and needs of justice seekers
3. **Listen to and learn from women and girls** and be driven by their priorities for addressing their justice needs. GBV specialists and other humanitarian actors should privilege the voices and expertise of women and girls and their organizations when determining justice programming priorities and approaches, recognizing women and girls as experts in justice issues and in how patriarchy determines gender in their context. Women and girls should always be consulted about whether informal justice mechanisms can meet their needs to avoid supporting mechanisms that prioritize families and communities at the expense of survivors (Swaine, Spearing, Murphy and Contreras, 2018).
4. **Support local organizations and civil society, particularly women's rights organizations** working to strengthen access to justice for GBV survivors. International actors should use their influence, advocacy and resources to support local capacity and

efforts aimed at reforming legal frameworks and improving survivor-centered functioning and accountability of formal and informal justice sectors. This requires sharing power with local and national NGOs in decision-making and programming and reducing funding inequities between international and local NGOs.

5. **Always be survivor-centered and survivor-driven.** Every actor involved in improving access to justice for GBV survivors must always center women and girls' safety, dignity and self-determination throughout every aspect of programming. Well-intentioned actors sometimes encourage women to report their cases to police and go through the justice system, however survivors should never be encouraged to use systems that they are wary of without access to all relevant information with which to make informed decisions about whether and how to pursue justice.
6. **Ensure availability of GBV health, psychosocial and safety services** as a pre-requisite to justice programming targeting GBV survivors.
7. **Engage with humanitarian actors with a rule of law mandate** to ensure GBV is appropriately and safely addressed within rule of law programming. This should include advocacy for recognition of women's rights, including to protection and remedy for GBV within law and justice sector reform initiatives, and for inclusion of specialist GBV expertise in rule of law programming addressing formal, informal and transitional justice mechanisms.
8. **Support women's organising and movements.** Evidence has shown that women's rights movements are a critical accelerator for legal and policy reform to address GBV (High-level Group on Justice for Women, 2019).
9. **Advocate for and support women and girls' participation as actors in formal and informal justice systems.** Increasing their participation, capacities and influence within justice systems, including at community level, can open up spaces for prioritizing women and girls' justice concerns.

3.2 Programming strategies

The strategies GBV specialists use in designing programming that seeks to increase survivor's access to justice in a particular context will depend on:

- Organizational mandate, role, resources and timeframe.
- The phase and type of humanitarian response.
- The context, needs and gaps, including priority GBV justice needs and what work is already being undertaken by local actors.
- The perspectives and priorities of women and girls, including GBV survivors, and women's organizations.

Assessment and context analysis

All initiatives aimed at strengthening access to justice for GBV survivors in emergency-affected settings must be tailored to the context. GBV humanitarian programming must support and build on what is already being done by national and local actors, as well as international rule of law actors, to strengthen access to justice for GBV survivors. Much relevant information about formal and informal legal and justice frameworks and systems already exists in many settings, and GBV specialists should first always analyse all existing information and consult with local experts before undertaking new research or assessments to inform justice programming. Areas to consider when

undertaking analysis of needs and gaps in relation to access to justice for GBV survivor include:

- Gaps, capacities and barriers faced by women and girls to formal and informal justice mechanisms.
- Vested interests and risks.
- The relationship between formal and informal systems.
- Social norms surrounding GBV and influencing survivor's safety, protection and remedy for GBV.
- Community-level factors influencing justice processes, including locally-specific barriers to justice.
- Justice needs and priorities of survivors, and what women and girls want and need, and what is safe.
- Entry points

Strengthening informal justice systems

Due to their greater availability and accessibility to GBV survivors and community preference, in many contexts the majority of GBV cases continue to be brought before informal justice systems. While international actors have tended to focus on strengthening formal justice systems, the importance of engaging with informal systems is increasingly well recognized. It is also increasingly recognized that progressive change is possible within informal systems (The High-level Group on Justice for Women, 2019), and there is potential for informal systems to work in ways that respect and protect women and girls' equal rights (The High-level Group on Justice for Women, 2018).

While there are some promising strategies for strengthening women's access to, and rights and protections within, informal justice systems, there is very little evidence or evidence-based guidance. It is critical that GBV specialists consider the following prior to engaging in programming aimed at improving informal justice processes and outcomes for GBV survivors:

- *There is no standard approach to working with customary or community justice systems.* The complexity and uniqueness of each informal justice system means humanitarian actors must undertake careful and thorough assessments that include analysis of the following: power structures and elite interests within community justice mechanisms; social norms surrounding GBV and community justice systems; the needs and perspectives of women and girls; the intersections between formal and informal institutions in relation to GBV; the potential benefits and risks of intervention (IDLO 2019b).
- *Women's disempowerment within informal justice settings is grounded in structural inequalities, power asymmetries and discriminatory social norms* (IDLO, 2013) and short-term and single-strategy approaches are unlikely to catalyze substantive or sustained change. For example, even if women and girls have increased knowledge about their legal rights within informal justice mechanisms, their social status within the family and community will likely limit their ability to make decisions or exercise their agency in relation to those rights. In another example, even if women are included as adjudicators in community mechanisms, if they are only women in decision-making positions in the community, their impact might be limited. Change is linked to a more general shift in the social power structure (UNDP, UNICEF, UN Women, 2018) and interventions to strengthen women's rights and protections within informal justice systems must address inequitable structures and norms.

- *Programming to address informal justice structures and norms should always be informed and led by local experts*, including women's organisations and work with a wide range of actors and allies including community, customary and religious leaders, human rights.

Promising strategies

Promising strategies for promoting GBV survivor's rights and protections within informal justice mechanisms include:

- Empowering women and girls to know and claim their rights.
- Transforming harmful gender and social norms.
- Encouraging gender-sensitive reform of informal justice systems (IDLO 2020; IDLO 2019b; The High-level Group on Justice for Women, 2018).

Empower women and girls to know and claim their rights. Empowering women and girls to claim their rights enables them to bring about change in their own communities and lives (IDLO, 2013). Programming to build women's legal literacy and support their agency to assert their legal rights have been shown to improve women's representation and participation in justice processes and legal remedies (The High-level Group on Justice for Women, 2018; Goodwin and Maru, 2017). Programme strategies include:

Building women's and girls' knowledge of the law and their rights. Legal awareness and education enable women to understand how justice systems work, likely outcomes from different system and to decide whether and how to engage with available mechanisms. Information and awareness efforts should include strategies for targeting those who disproportionately economically, socially and geographically marginalized (IDLO, 2013), and for providing girls with information tailored to their GBV experiences, needs and capacities. Examples of activities to build knowledge and understanding include (IDLO, 2020):

- Education campaigns targeting women or girls.
- Public information campaigns to build community-wide knowledge about GBV, and about legal rights, protections and remedies for GBV. Education campaigns should also provide information on the harms caused by GBV and on women's and girls' rights to protection and remedy (Seelinger and Freccero, 2015).
- Dialogues between women and informal justice actors on customary law.
- Recording and publicizing decisions from informal justice proceedings to assist women in knowing the content and application of the law.
- Peer education. See Box 13 for an example of a peer-based legal awareness training programme for refugee women.

Box 13: Legal awareness and empowerment programmes

Support to Life, a Turkish NGO, used a community-based approach to supporting refugee women living in Turkey to organize and empower other refugee women to be able to access justice services in the context of GBV through improving refugee women's legal literacy and confidence in asserting their rights to protection and

Box 13: Continued

justice. The aim of the project was to enable outreach to marginalised refugee women to provide them with information on access to protection and justice services by:

- Empowering volunteer refugee women to disseminate information and raise awareness of women and girls in their communities in the areas of temporary protection regime, women's rights, existing justice services and access to these services.
- Informing refugee women and girls about current justice services and protection mechanisms and increasing their confidence in accessing these services.
- Sharing good practices on community-based interventions to overcome GBV among civil society organizations, government agencies, lawyers and other relevant stakeholders.

In Lebanon, to address the problem that more than 70% of women surveyed reported not being aware they are protected against GBV under law, and the same number not knowing how to access legal or other services, LAW now conducts weekly community awareness sessions for marginalised women, including refugees. The sessions include information for refugee women (including those without a valid residency permit) about how women experiencing domestic violence are able to access free emergency protection orders. In response to the COVID-19 pandemic, LAW has increased use of social media to get information to refugee and other marginalised women, which has led to a five-fold increase in calls to LAW's legal aid hotline.²⁵



Strengthening women's and girls' voice and solidarity. Because GBV is often not discussed in families or communities, it is important to provide women and girls with the opportunity to express their views, engage in dialogue and discuss GBV and how their communities respond to it in a safe manner. Use safe space programming to enable women and girls to safely share their views and experiences of community-based justice mechanisms with each other, and use creative strategies to connect women interested in participating in initiatives to improve women's and girls' rights and protections within community mechanisms.

Supporting survivors to navigate informal justice systems. It is important that GBV survivors have accurate and helpful information to make informed decisions about whether and how to engage with justice mechanism, and that those who do choose to use community justice mechanisms have support through process. Strategies for supporting survivors to make decisions about using justice mechanisms and doing so safely include (IDLO, 2020):

- Supporting existing paralegal, intermediary, women's advice or justice services to provide women with accurate information about their justice options.
- Training or mentoring paralegals about women's human rights, customary and formal laws, referral and appeal pathways, mediation skills and gendered experiences of justice.

²⁵ Field, 2018; Interview with LAW Lebanon Program Manager.

- Facilitating interaction between informal justice leaders and existing support services to build productive relationships.
- Supporting women's leaders or organizations to provide or facilitate justice assistance in their communities.
- Developing referral pathways to help women navigate not only legal aspects, but also access support and related services for ensuring justice, especially for GBV matters.
- Supporting programs that engage women as active participants in the justice process, rather than only as service recipients. Women should receive information about both informal and formal systems, so they may make informed choices and participate accordingly.
- Training women on self-representation in informal justice systems or, if they are unable to self-represent, providing them with information on what good representation entails.
- Developing graphic guides that depict women's potential justice journeys (IDLO, 2020).

Box 14: Training women as gender focal points in Afghanistan

In Balkh and Badakhshan provinces in Afghanistan, 22 Gender Focal Points were trained to support and advise women on their rights, formal and customary law, available support and appropriate referral pathways. Focal Points are locally respected women who receive basic legal training. This has been welcomed by the Ministry of Women's Affairs as they are not able to provide support services countrywide. In addition, a legal information center was opened in the courtyard of the Blue Mosque in Mazar-e Sharif, Balkh Province. The center hands out leaflets to the community, providing information on rights and the law, including women's property and inheritance rights.²⁶



Transforming harmful gender and social norms. Substantive change within informal justice systems is unlikely to occur without social norm change. Community norms are key determinants of access to justice for GBV survivors, and they shape whether and how women and girls can access informal justice mechanisms, their rights to protections and remedies for GBV within informal justice systems, and harmful gender perpetuate norms women's disempowerment within informal justice settings. Transforming harmful and inequitable norms into norms that foster zero tolerance for GBV, support the safety, rights and well-being of GBV survivors and hold perpetrators accountable is therefore an essential aspect of strengthening access to justice for survivors. GBV programmes in emergency contexts can implement interventions to transform social norms by:

- Building awareness and engaging communities in structured dialogue about GBV to help foster norms and attitudes that encourage accountability for perpetrators and community support for survivors.
- Supporting whole of community mobilization to foster social norms and attitudes that are supportive of GBV survivors and that hold perpetrators accountable
- Engaging religious, traditional and community leaders as influential catalysts for norm change. See Box 15 for an example of religious leaders spearheading action to change community norms about GBV in Somalia.

²⁶ Excerpted from IDLO, 2020



Box 15: Religious leaders speaking out against GBV in Somalia

In response to the need to increase access to quality care and support services for GBV survivors, as well as to develop effective strategies to transform harmful social norms that contribute to GBV in conflict-affected communities, UNICEF's developed the Communities Care: Transforming Lives and Preventing Violence programme seeks to catalyze positive change in social norms that can contribute to gender equality and decrease discrimination and GBV. The goal of Communities Care is to create healthier, safer and more peaceful communities and it does this by working with community members to transform harmful social norms that upheld GBV into norms that promote dignity, equality and non-violence. It does this by engaging community members, including religious and traditional leaders in collective reflection on and exploration of values, aspirations and norms related to violence and discrimination. Community members are encouraged to re-affirm values of dignity, equality and non-violence and take concrete action to promote greater gender equitable relationships in their families and communities. Communicating a commitment to gender-equitable beliefs and behaviors to others, and building an environment that supports nonviolent healthy behavior through the adoption of laws and policies, are also vital aspects of the Communities Care change process. As the result of the programme in Somalia, religious leaders played a central role in preventing GBV and were instrumental in influencing community beliefs and norms about GBV. As a result of the programme, religious leaders:

- Made public declarations against GBV at community meetings;
- Participated in planning workshops with traditional leaders, government leaders and members of civil society organizations to identify actions they could collectively take to prevent GBV;
- Used weekly religious sermons to speak out against GBV; and
- Held community meetings and went door-to-door to speak out against GBV and shift community norms about GBV.

As influential community and opinion leaders, their efforts were invaluable in helping to build a climate of intolerance to GBV by reinforcing religious teachings and cultural norms that promoted children's and women's rights to safety, dignity and peace.

Encouraging gender-sensitive informal justice systems. A range of strategies can be used to encourage greater survivor-centered processes and practices within informal justice systems. These include:

Increasing women's representation and participation in community justice mechanisms. While increased representation of women with informal justice mechanisms will not automatically improve justice outcomes for GBV survivors, there is some evidence that greater diversity and representation can improve service delivery for women and that female customary leaders can play an important role in advancing women's rights (IDLO, 2020). Furthermore, evidence does show that women feel more comfortable discussing sensitive matters such as GBV with other women. Where it is not possible to include women as community justice leaders or adjudicators, women might be included as paralegals or in another advisory role advising informal justice

mechanisms and survivors (IDLO, 2020). Activities to help increase women’s representation and participation in informal justice systems include (IDLO, 2020):

- Working with local women’s organizations to identify opportunities for improving women’s representation in decision-making within informal systems.
- Facilitating dialogue and debate at the community level on issues of women’s participation to build understanding and support.
- Sensitizing informal justice system actors on the benefits of inclusion of women in decision-making.
- Exploring quotas or reserved seats for women in cases involving women.
- Supporting an empowering environment for women representatives in informal justice systems (IDLO, 2020).

Box 16: Involving women leaders in community justice in Burundi



In Burundi, a country slowly emerging from decades of conflict, UN Women has supported an initiative to incorporate women into the circle of *bashingantahe*, traditional elders responsible for conflict resolution at the community level, which had previously been a strictly male domain. The *bashingantahe* are instrumental in the maintenance of community cohesion and the restoration of peace in their collines, the smallest administrative units in the country. Through sensitization of leaders on women’s rights and the amendment of the *bashingantahe* charter, women became accepted as part of the institution, taking part in decision-making. They now make up 40 percent of the committee members of the *bashingantahe*. As a result, awareness of sexual and gender-based violence and other violations of women’s rights has increased. Burundian women’s organizations have been campaigning for a new law to guarantee women’s inheritance rights. Although resistant at first, *bashingantahe* leaders have been speaking out in public in support of the proposed law, including on local radio, and have become important allies in the campaign.²⁷

Sensitizing, training and engaging traditional, religious and community leaders on gender justice and GBV. Building gender awareness and sensitivity of custodians of informal justice systems can help facilitate understanding of women’s justice needs and more effectively address those needs. Lessons from working with faith, community and traditional leaders on GBV include: the importance of contextualization by articulating women’s rights through customary laws or religious texts (see box x); identifying the right entry point and developing trust; understanding religious diversity and power dynamics between actors; the need for local ownership by and continuous dialogue with faith actors. (Norwegian Church Aid, 2019). Activities for engaging with traditional, religious and community leaders include:

- Facilitating community dialogues on women’s rights and access to justice for women between leaders, women and other community members.

²⁷ UN Women, UNDP, UNODC and OHCHR, 2018

- Training or building capacity of leaders in women’s rights and gender-sensitive approaches to justice, and justice skills, such as gender-responsive decision making, mediation, evidence assessment and record-keeping.
- Peer learning, coaching and mentoring on good practices for leaders.
- Producing simplified statutory codes or guides on relevant formal laws on the rights of women.
- Exchange visits between gender-responsive formal courts and informal justice forums to build mutual understanding and facilitate cross-system learning on how to be more gender-sensitive. Include visits by women champions, community leaders, magistrates or judges to informal justice forums (IDLO, 2020).

Box 17: Engaging religious leaders on gender justice and GBV



In the Autonomous Region of Muslim Mindanao in the Philippines, the engagement of the local women’s organization Nisa Ul Haqq Fi Bangsamoro with religious leaders has led to the development of 15 khutbas (Friday sermons) on women’s rights by the religious leaders. They are now used as a guide to other religious and community leaders in legitimizing and explaining gender equality. The khutbas cover, for instance, early and arranged marriage, violence against women and Islamic inheritance. The khutbas have been published and translated into different languages to spread throughout Mindanao and have received important backing from senior Islamic clerics –although, of course, challenges remain in getting all religious leaders to agree with the more progressive interpretations.²⁸

In Lebanon, UNICEF and Terres des Hommes (TdH) partnered to engage a group of well-respected Muslim clerics to combat GBV. As a first step, TdH collaborated with other international partners, universities and religious leaders to analyse how Islamic thinking could better inform the design and implementation of programming in Muslim communities. A pool of 16 volunteer clerics were trained on basic child protection and GBV concepts, and on the risks and harms associated with child marriage. During workshops with religious leaders, a problem tree was used to facilitate discussion about child marriage and to elicit participants’ view of the causes, consequences and proposed solutions for the issue. Discussions with sheikhs about child marriage revealed that focusing on the harms to children that results from child marriage was essential for establishing common ground and setting joint objectives. TdH worked with the one sheikh to draft a series of Friday messages with the sheikh conducting research on the issue and collecting supporting passages from the Qur’an. After the imam drafted the text in Arabic, it was reviewed by a child protection specialist to ensure it was in line with relevant norms and standards. Once it was validated, the text was shared with other imams, who then went on to incorporate it into their awareness-raising activities, including through Friday sermons. Notably, the imams did not convey the texts in a uniform way. Some imams spoke very generally about the issue; some added examples,

²⁸ Excerpted from IDLO, 2020.

Box 17: Continued

while others followed the text verbatim. The sheikhs also raised awareness through smaller settings, such as religious education classes in the mosque.²⁹

In Somaliland, a small group of traditional elders from the Toghdeer region approached the Danish Refugee Council (DRC) for support. They wanted assistance in revising their customary law (xeer) in order to bring it in line with Shari'a law (Islamic law) and international human rights standards. A notable aspect of this intervention was that this initiative came from within the community itself. In order to revise customary law, a series of dialogues were held, which led to a Regional Declaration being signed. This Declaration committed elders to taking a number of steps aimed at improving access to justice and enhancing the security and protection of vulnerable groups, including women. Amongst other goals, the Declaration sought to move from communal to individual criminal responsibility. It addressed this by requiring compensation be paid directly to a victim's family – rather than being shared by a larger clan. The elders also ceded their jurisdiction over serious crimes – including rape and murder – to the formal legal system, moving from communal to individual liability. The interest generated around the process, led to parallel processes being conducted in other regions of Somaliland. Soon all regions of Somaliland had their own Declarations. In 2006, a single National Declaration was created. The success of this endeavor led to the program being expanded to Puntland, where Regional Declarations were created, followed by their own National Declaration in 2009.

The Danish Refugee Council conducted a monitoring trip to determine whether these policy initiatives had actually led to positive changes on the ground. They identified a number of changes that had occurred since the Declarations were made. There had been a 90% reduction in the number of murder cases heard by the xeers as well as a decrease in revenge killings. There was also evidence of an increased number of cases referred to the formal courts. However, the results were not all positive. The evaluation found that the most vulnerable in the population still had problems accessing justice. Follow-ups revealed that few members of the population actually knew about the Declarations. This lack of awareness limited the Declarations' ability to enhance legal protection of vulnerable groups – if people did not know about their rights, they could not act to assert them. In addition to this, many traditional leaders continued to hear serious matters—such as rape cases—rather than referring them to the formal legal system. Some reasons for this included social pressure for these matters to be heard at xeers as well as the fact that victims elected to discontinue proceedings if they were referred on.

There were many challenges in trying to bring xeer in line with statutory law, international human rights and Shari'a, due to xeer being oral, flexible, ever-changing, and applied differently to different groups. Standardizing xeer to apply the same to all groups proved problematic. This challenge was heightened by the fact that there

²⁹ UNICEF, 2018

Box 17: Continued

was no governing authority overseeing these changing codes or enforcing them. The elders frequently did not understand or were not equipped to implement these rights and practices. A key problem identified was that the Declarations relied on the goodwill of elders to keep their commitments.

The Declarations did not establish any mechanisms to ensure accountability or to guarantee their implementation. Problematically, the elders did not bind themselves to any tangible goals. Rather, the revised xeer regularly contained vague language that did not actually elaborate on the ways in which commitments would be exercised or how they would be used to address specific rights.³⁰

Supporting alternative women-centered dispute resolution systems. Although uncommon, there are examples of women-centered dispute resolution systems are provided in Box 18. It should be noted that development of these process should be initiated and managed by local actors, but humanitarian actors might play a role in supporting the efforts of national women’s organizations or networks engaging creating local women-centred dispute resolution mechanisms.

Box 18: Women-centered alternative dispute resolution systems

Women-centered informal dispute resolution systems can play a role in supporting survivors and challenging cultures of impunity at local levels. Women-centered alternative dispute resolution (ADR) approaches are more likely to deliver appropriate solutions for survivors than approaches led by (normally male) political, religious, or ethnic leaders. A study undertaken on women’s voice and agency in alternative dispute resolution responses to intimate partner violence found evidence of pioneering organizations implementing processes in their localities to better prioritize the voice and agency of women survivors of intimate partner violence. Two examples from this research are from Vanuatu and Indi.

Committees Against Violence Against Women (CAVAW) model in Vanuatu

In Vanuatu, the Committees Against Violence Against Women (CAVAWs) model presents an example of a “minimally invasive” approach to adjust the functioning of ADR processes in relation to intimate partner violence cases. The traditional chief-led “kastom court” operates more or less as it does for other disputes, but with the powerful addition of a committee of women’s advocates in an influential role for any case related to intimate partner violence or women’s rights. The CAVAW initiative of the Vanuatu Women’s Center is an excellent example of a women-led initiative to influence and improve – rather than eliminate or replace – existing community-based ADR processes (in this case, arbitration hearings called “kastom courts”). Each

³⁰ Extracted from Stern, 2014

Box 18: Continued

CAVAW comprises five or six volunteer women who undertake community education and survivor support functions across rural Vanuatu. According to the most recent evaluation reports, there are nearly fifty CAVAWs presently operating across this island nation.

CAVAW members receive training in legal literacy and counseling skills, and thereafter make traveling public presentations to ensure that women are aware of their rights and available services. Each committee also tends to have a private meeting location where it is safe for women survivors of intimate partner violence to discuss their situations confidentially. Women survivors of intimate partner violence who choose to seek some assistance will often report to CAVAW members prior to seeking assistance from male chiefs and/or police officers. Depending on each survivor's priorities and situation, CAVAW members are able to: refer survivors to necessary health or support services, accompany survivors to make formal charges at a police station, or, commonly, assist a survivor in seeking a customary dispute resolution hearing in her village.

Women's Courts in Gujarat, India (Nari Adalat/Mahila Panch)

The Nari Adalat and Mahila Panch are excellent examples of women-led ADR processes that specifically seek to supplant traditional methods with an option based on feminist principles. Self-identifying as “for women, by women, and of women,” these courts offer arbitration for cases of violence under the authority of a large group of highly trained women, and have established legitimacy in their community over three decades of persistence.

Both run by the women's organization Mahila Samakhya in different locations in the Indian state of Gujarat, the Nari Adalat (in Baroda) and Mahila Panch (in Rajkot) have been functioning since the mid-1990s. These comparably large groups of women (comprising upwards of 60 volunteer members each) undertake thorough training prior to presiding over regular dispute resolution hearings. The training is “guided by a strong feminist critique of the legal system to inform women of what should be involved in an alternate system of justice.”

The steps of any Nari Adalat or Mahila Panch (NA/MP) follow standard processes of receiving a complaint and gathering information, holding a hearing with the parties involved, making a decision about outcome or punishment and enforcing the decision, but with feminist principles and prioritization of women's rights imbued throughout. An evaluation of these processes highlighted six “non-negotiables” of ADR processes facilitated by these women's courts for cases of intimate partner violence:

- That the woman is able to get what she wants (which might not be what she came with initially, but is what she desires when it comes time for judgment);
- In the event that the woman disagrees with the NA/MP, ultimately, the deciding factor is what she wants;
- The woman's sense of dignity and respect is preserved; she is not made to feel that it is her fault;

Box 18: Continued

- The NA/MP has an environment where the woman does not feel threatened and is able to speak without fear;
- The environment is such that the man feels he is also able to present his point of view; and
- The NA/MP will stand and speak up against injustice of any kind and will try and change community thinking on this.

The same evaluation found that the majority of women who had brought cases in front of the NA/MP reported: decreased violence at home, increased confidence, improved understanding of violence, and improved household relations overall. The study also highlighted meaningful outcomes for the women who comprise the NA/MP itself as well. While these women's courts were not welcomed by the patriarchal, caste-based hierarchy in their first several years of existence, their persistence has resulted in a shifting landscape of community norms whereby lower-caste women are recognized for their leadership potential and intimate partner violence is increasingly rejected and reported.

Finally, in the Swat Valley in Pakistan where under the Taliban rule, women were forbidden to leave the home without a male relative and continue to experience high levels of GBV – people turn to traditional community assemblies known as 'jirgas' to resolve their disputes. Tired of women's rights regularly being discriminated against by male-only jirgas, a group of 25 local women formed its own jirga in 2013. The all-female forum has heard thousands of cases related to women's issues and uses its collective strength as well as the support of its senior female members to back women's cases in formal courts.³¹

Strengthening formal justice systems

Strengthening formal legal frameworks. Depending on agency mandate, GBV actors may have a role in supporting development and implementation of laws and policies that criminalize and enable prosecution of GBV. The aims of law reform include promoting girls' and women's equal rights before the law, enshrining prevention, protection and redress for GBV violations in national legislation and policies and ensuring provisions for holding perpetrators of GBV accountable for their behavior. Even relatively minor changes to legal definitions can have a significant impact on GBV outcomes, as illustrated by the Swedish example in Box 19.

Box 19: Amendment to the legal definition of rape in Swedish law

Sweden changed the legal definition of rape in 2018 to sex without consent. Unlike in many countries, prosecutors no longer have to prove the use or threat of violence or coercion. Rape conviction rates in Sweden have risen 75% in two years following the change in the law, spurring calls for other countries to revise their legislation.³²

³¹ <https://www.idlo.int/news/story/engaging-informal-systems-enhance-justice-women>

³² Global Citizen, https://www.globalcitizen.org/en/content/rape-convictions-in-sweden-rise-after-law-change/?utm_source=lterable&utm_medium=email&utm_campaign=US_July_6_2020_Content_Digest

The specific strategies GBV specialists use will depend on their agency mandate, but may include:

- **Conducting or supporting advocacy** for law reform so that all forms of GBV are recognized in law with clear definitions (ensuring, for example, separate definitions for rape and adultery) and removing discriminatory provisions (for example, the requirement for witnesses to testify that a sexual act was not consenting in rape cases).
- **Providing funding or technical expertise** to national law reform bodies and processes.
- **Training and development** for legal and justice personnel on implementation of survivor-centered laws and policies.
- **Community education** on survivors' rights and protection under GBV laws.
- **Supporting women's organizations** to monitor implementation of laws.

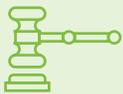
Strengthening and implementing survivor-centered policies.

A key strategy for improving access to justice for GBV survivors is advocating and working with authorities to implement supportive policy frameworks. This includes support to development of comprehensive national policy frameworks as is often undertaken by UN agencies, but also support to catalyzing policy changes at the local level to reduce barriers faced by GBV survivors who wish to access criminal justice services. Examples include introduction of policies or protocols for dealing with evidence-based prosecutions or what are also called "absent-victim" prosecutions that enable prosecution without survivors having to testify (see Box 20).



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Box 20: Victimless prosecution



In a victimless prosecution, evidence other than the survivor's testimony is used. By relying primarily on the evidence collected by the police rather than the victim's testimony, prosecutors may be able to reduce the risk of retaliation by the offender and increase the likelihood of a successful prosecution in the event that the victim is unable or unwilling to testify. All available sources of evidence that support charges independent of a victim's direct testimony should be used, including past police reports and orders for protection; evidence from the scene such as photos of damaged property, ripped clothes, or broken phones; testimony of neighbours, friends, or family members present during instances of violence; emergency call tapes; e-mail, voicemail or text communications; prior arrests and convictions; medical records; and family court files. In absent-victim prosecutions, the initial gathering of evidence is especially critical.³³

³³ UNODC, 2014, p. 81.

GBV specialists commonly support advocacy at a local level for policy change. For example, in some contexts, GBV specialists have successfully advocated for changes to policies that require survivors to pay for a medical practitioner to complete a special form prior to reporting to police.

- Strategies to support survivor-centered policy development and implementation can include:
- Undertaking advocacy with authorities at national and sub-national levels to change harmful or discriminatory policies that inhibit GBV survivors from seeking justice.
- Supplying technical expertise in national policy review and reform processes.
- Training and development for legal and justice personnel on implementation of national or local level policies.
- Supporting women's organizations to monitor implementation of policies.

Building survivor-centered law enforcement and justice services

GBV specialists can strengthen access to justice for GBV survivors by supporting efforts to increase availability, accessibility and quality of survivor-centered law enforcement and justice services. This may be done through:

- **Supporting development of survivor-centered protocols and practices** across relevant legal and justice services.
- **Building capacity of health services** to deliver survivor-centered medico-legal responses to GBV.
- **Fostering survivor-centered police practices** that facilitate safe and confidential reporting, investigation and prosecution of GBV crimes.
- **Supporting survivor-centered court services** by providing technical guidance on handling cases of GBV by improving the sensitivity, accountability, and effectiveness of justice actors (UN Women, UNDP, UNODC and OHCHR, 2018).



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Building capacity of health services to deliver survivor-centred medico-legal services. Medico-legal services are at the intersection of medical and justice processes and appropriate implementation requires coordination between the range of actors and sectors involved in prevention of, and response to, sexual violence; these include health services, social services, forensic medicine and laboratory services, police/investigation, and the legal system. Strategies humanitarian agencies undertake to strengthen medico-legal response to sexual violence include:

- **Providing direct post-rape service delivery** in settings where there are no national providers.
- **Supporting development and roll-out of national protocols** for medico-legal sexual violence response.
- **Building capacity of government and non-government health providers** to implement protocols and good practices in medico-legal response to sexual violence

through training personnel, providing resources, supplies, equipment and appropriate technology to enable survivor-centered medico-legal response. Recent innovation in capacity building aimed at improving medico-legal response to sexual violence has included trialling of a smartphone app, as illustrated in Box 21.

Box 21: The MediCapt app for mobile collection of forensic evidence of sexual violence



In the Democratic Republic of Congo (DRC) RC and Kenya, most cases of sexual violence do not go to court and perpetrators are rarely held to account for their crimes. One of the reasons for this is a lack of evidence. Often, clinicians who examine survivors collect incomplete information that cannot be used as evidence to prosecute the cases. Furthermore, due to a lack of secure storage, most health and police facilities keep private medical files on desks or floors where they risk being damaged, lost or stolen. As a result, police often do not get the evidence they need from clinics to support investigations. In 2011, Physicians for Human Rights (PHR) launched its Programme on Sexual Violence in Conflict Zones, an initiative to enhance collaboration between medical and legal professionals to help capture, preserve and transmit forensic evidence of acts of sexual violence, in order to increase the likelihood of successful investigations and prosecutions and improve access to justice for survivors. As part of the programme, PHR developed MediCapt, a mobile phone application to help compile medical evidence, photograph survivors' injuries, and securely transmit the data to police, lawyers, and judges involved in prosecuting sexual violence crimes. The app's data mapping feature can also help reveal patterns of prevalence of violence, including the widespread or systematic nature of offences critical to demonstrating crimes against humanity. The tool can accommodate the various languages and literacy levels of its users. An evaluation of the tool will be published in 2021, with preliminary data indicating that MediCapt enables clinicians to better document forensic evidence of sexual violence and saves them time.³⁴

Strengthening survivor-centred policing practices. Police are at the frontline of the criminal justice system. Police work with GBV survivors, offenders and witnesses, and their approaches, attitudes and responses can have a significant impact on preventing future acts of GBV, protecting GBV survivors, and prosecution of GBV in court (United Nations Office on Drugs and Crime, 2010). Strategies to build survivor-centered policing responses to GBV include:

- **Advocacy for recruitment of women** in police forces, noting that while there is evidence emerging of the positive correlation between female police officers and increased reporting of GBV (Ofosu-Amaah, Chiongson and Gandini, 2015) it is vital to ensure that women police officers are well-supported.
- **Supporting women-centered policing models.** As illustrated in Box 22, a range of women-centered policing models have been adopted around the world. They include women's police stations, GBV desks and integrated GBV and children's desks in police stations, integrating GBV services by co-locating survivor support workers in police stations or by integrating police response into one-stop models.

³⁴ Naimer, Brown and Mishori, 2017; personal communication September 2020.

Box 22: Specialised police stations and units

Women's police stations and gender and/or domestic violence units within police stations have been established in a number of countries, including Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Ghana, India, Kosovo, Liberia, Nicaragua, Peru, the Philippines, Uruguay, Sierra Leone, South Africa, Uganda and the United Kingdom. These stations are staffed primarily by female officers in order to provide an environment where women may feel more comfortable in reporting and be assured that their reports will be properly handled. They often comprise specialised police officers who team with health workers, social workers, and legal and other specialists to respond to cases of GBV (and, in many cases, violence against children), including domestic violence and sexual assault of women and children. In addition, they are focused on increasing awareness of women's rights within the community at large.³⁵ A recent review found that specialised women's police stations can increase access to justice for GBV survivors, empower survivors to leave violent relationships and challenge patriarchal norms that sustain GBV. This research also found that a secondary benefit of women's police stations is that they may encourage women to take up a career in law enforcement.³⁶

Victim Support Units, established by the Malawi Police Service ensure that trained staff are available to handle reports of violence from women and children in a child-friendly, gender-sensitive and victim-centered manner. This model integrating responses to GBV and child protection ideally provides particular benefit to girls, as the service is designed to address their gender and age-based experiences and needs. Client satisfaction surveys indicate positive experiences of Victim Support Units by most users.³⁷

- **Training and development of police** to promote survivor-centered responses to GBV by police. An example of a police training programme delivered by an NGO is in Box 23.

Box 23: Rabta Police Training Programme in Pakistan

The Rabta Police Training Programme was established in Pakistan in 1999 and is run by the Pakistani NGO Rozan in partnership with the National Police Academy, National Police Bureau, Islamabad Police and Provincial Police Departments. It aims to improve the relationship between the police and communities in Pakistan by providing training to increase the self-awareness and life skills of police personnel, to improve their knowledge of gender issues, and to enhance their capacities to deal effectively and sensitively with cases of GBV. Rozan developed an attitudinal change training module which encourages

³⁵ Perova and Reynolds, 2015; Denham, 2008

³⁶ Ellsberg et al, 2015; Carrington, Guala, Puyol and Sozzo, 2019

³⁷ UNICEF, 2017

Box 23: Continued

male police participants to reflect on their understandings of masculinity - in terms of societal expectations and norms about male behavior. The module leverages this awareness to discuss the social roles and expectations of women. The training is implemented through a non-confrontational workshop, which seek to strengthen life skills before explicit discussion of gender issues, enabling participants to participate openly and in a manner conducive to changing how police may interact with survivors of GBV. The programme has developed incrementally in response to changing gender relations and feedback from participants and partners. Key achievements of the Rabta programme include Rozan's formal partnership with police leadership and the institutionalization of its training module into the official training curriculum for new recruits and serving officers.³⁸

Strengthening survivor-centered court services. Although the operation of courts, like police, is the responsibility of the state, depending on agency role and mandate, GBV specialists can support state efforts to strengthen survivor-centered court services in the following ways:

- **Advocacy for recruitment and participation of women as actors** in the justice sector, as court staff and judges, as well as in other leadership and decision-making roles (The High-level Group on Justice for Women, 2018).
- **Advocacy and support for implementing survivor-centered court models and practices.** Survivor-centered court models include having GBV matters heard on dedicated days, and/or heard by specialized judges trained and experienced in GBV cases. In some contexts, mobile courts have been used to improve access to court services, including for GBV survivors. Strategies for making courtrooms and court processes more survivor-centered include, for example, having support workers accompany survivors to court; safe areas survivors can wait; arranging times that a defendant and survivor enter and leave the courtroom; in camera trials; and enabling survivors to give evidence in separate rooms or behind screens (Ofosu-Amaah, Chiongson and Gandini, 2015).
- **Training and development of all levels of staff working in the justice system** to ensure judges, lawyers, court personnel and other relevant staff understand the issue of GBV and treat survivors with respect and sensitivity, and do not use victim-blaming or gender-biased language in court.



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³⁸ See <https://rozan.org/police-program-rabta/>

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The GBV AoR Help Desk

The GBV AoR Helpdesk is a unique research and technical advice service which aims to inspire and support humanitarian actors to help prevent, mitigate and respond to violence against women and girls in emergencies. Managed by Social Development Direct, the GBV AoR Helpdesk is staffed by a global roster of senior Gender and GBV Experts who are on standby to help guide frontline humanitarian actors on GBV prevention, risk mitigation and response measures in line with international standards, guidelines and best practice. Views or opinions expressed in GBV AoR Helpdesk Products do not necessarily reflect those of all members of the GBV AoR, nor of all the experts of SDDirect's Helpdesk roster.



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