

## Working with the Justice Sector to End Violence against Women and Girls

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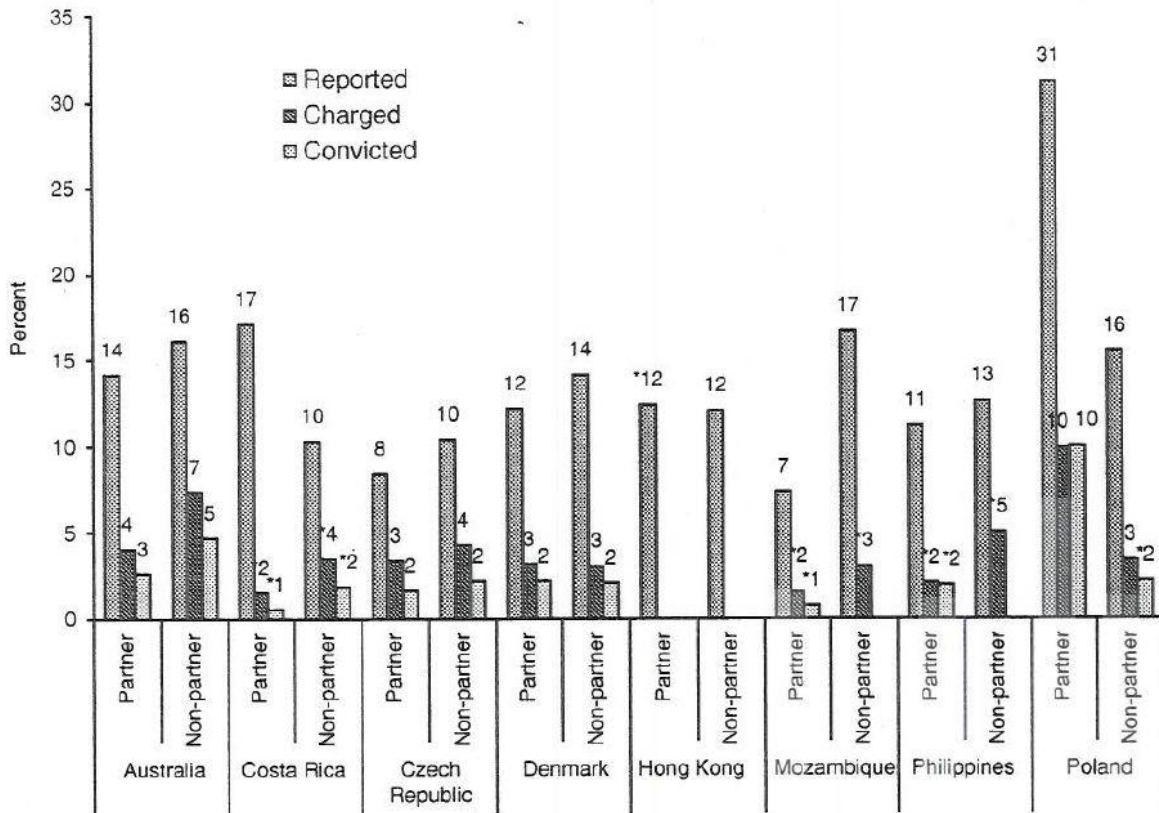
## INTRODUCTION AND KEY CONCEPTS

### Why is the justice sector important?

The justice sector has a powerful role to play in a [coordinated response](#) to ending violence against women and girls. The justice sector uses the authority of the government, or of the community, to enforce laws and other rules of behaviour that can protect women and girls from violence and punish perpetrators.

Women around the globe confront challenges accessing justice.

- Research shows that violence against women continues to be a severely underreported crime globally. The [International Violence Against Women Survey](#) shows that across the six diverse countries surveyed, generally less than 20% of women reported the last incident of violence they experienced to the police. (Poland was an exception where 29% of women reported physical violence and 39% reported sexual violence.)
- Violence by perpetrators who are known to the victim is much less likely to be reported than violence perpetrated by strangers.
- Women often do not see the violence as a crime. When asked about whether intimate partner violence they had experienced was a crime, more women participants in the [International Violence Against Women Survey](#) from around the world viewed the violence as wrong but not a crime. For example, only 41% of respondents in Costa Rica said the violence was a crime and only 15% of respondents in Hong Kong said the violence was criminal.
- When women do report crimes of violence, the rates of perpetrators being charged and convicted are very low, generally less than 10% according to the [International Violence Against Women Survey](#).



**Fig. 6.11** Attrition for violence perpetrated by partners and non-partners: percentage of cases reported to the police, percentage with charges laid and percentage with convictions calculated as a percentage of all victimised women

\*Relative standard error is between 25 and 50.

Sample counts for some categories were less than 5 in Hong Kong, Mozambique, and the Philippines.

Justice sector reform related to violence against women often focuses on the following goals (Quast, 2008):

- Reforming laws, policies, and practices to promote the removal of perpetrators from situations in which they use violence against women (incarceration, expulsion from the home, community exile) and holding offenders accountable for violence by imposing other penalties.
- Developing a fair and equitable constitution and reforming laws based on international human rights standards.
- Introducing legislative and enforcement mechanisms to promote and protect human rights and to overcome barriers confronting marginalized and vulnerable groups.
- Developing a judiciary with expertise on violence against women.
- Developing a coordinated community response to cases of violence against women.
- Providing timely, equitable access to justice and effective enforcement of laws.
- Ensuring that justice mechanisms apply fair and consistent procedures.

- Strengthening links and cooperation between and among state and non-state institutions to ensure victim safety and offender accountability.
- Ensuring that states meet their responsibilities under international and regional laws
- Building trust in the justice sector.
- Ensuring a representative and credible justice sector.
- Strengthening oversight and monitoring of the justice sector.
- Providing survivors with civil remedies and/or reparations.

## What does the justice sector entail?

The justice sector in all countries is pluralistic, meaning there are many different mechanisms that overlap to provide people with resolution of cases and remedies for violations committed against them. Some of these mechanisms are “formal”, in other words sanctioned and within the power of the State (e.g. national courts); others are “informal” and completely out of State control (e.g. community-based case resolution practices). Informal justice mechanisms, in particular, often reflect customary or prevailing attitudes of the community towards women and girl victims of violence and consequently often present risks to victim safety and gaps in accountability of perpetrators. Other justice mechanisms are a mixture of the two (e.g. programmes that arrive at a community consensus regarding a sentence for an offender after that offender has been found guilty in the formal courts). In a federal state, cases can be addressed through sub-national justice systems, where they are not handled with legislative uniformity across the country.

### Common Types of Justice Mechanisms

Several terms are regularly used when discussing justice mechanisms. Some working definitions are provided below. This is by no means an exhaustive list of types of justice mechanisms and is only a reference set of terms that are commonly discussed. **it is important to note that negotiation, conciliation, mediation, and restorative justice mechanisms can be detrimental in cases of violence against women** because of power imbalances and safety risks for women interacting with perpetrators during face-to-face meetings.

**Negotiation:** A process through which parties voluntarily seek a mutually acceptable agreement to resolve a case.

**Conciliation:** A process through which a third party meets separately with each party to a case in an attempt to promote a settlement; often that is the first step in other resolution processes.

**Mediation:** A process through which a neutral third party negotiates a resolution to a case. Mediators, also known as facilitators, do not impose a decision or solution.



**Restorative Justice:** A process through which generally survivors and offenders, their families, and representatives of the community are all directly involved in responding to the harm caused by an offender's actions.

Some examples of restorative justice include sentencing circles, family group conferencing, survivor-offender mediation and dialogue, peacemaking circles, and other programmes that focus on repairing communal and other relationships.

**Arbitration:** A neutral third party hears the parties' arguments and imposes a decision that is enforceable through the courts or other mechanism; this decision may be binding or non-binding.

**Litigation:** A process through which parties present their case to a formal court and follow the procedures of that court to reach a resolution.

**Prosecution:** A process through which the government initiates and pursues a criminal case in a formal court against someone who is believed to have committed a crime. The outcome may be that the accused person is acquitted (found not to have committed the crime or guilt not proved beyond a reasonable doubt) or that the person is found guilty and a criminal penalty, such as incarceration, is imposed.

Sources: U.S. National Institute of Justice. 2007. [Fundamental Concepts of Restorative Justice](#); U.S. Agency for International Development. 1998. [Alternative Dispute Resolution Practitioners Guide](#).

### **Formal Justice Mechanisms**

Formal mechanisms derive their structure and power from the laws, policies, and regulations made by the government. They operate as a part of the government and are funded by the state. Their function is to interpret and resolve conflicts about the laws, as well as determine responsibility for violations of the laws. In federal systems, formal justice mechanisms may also derive from the power of a specified federal entity within the nation-state.

The official courts form the centre of the formal justice sector. Key actors in the formal justice sector can include judges, prosecutors, defense attorneys, civil attorneys, staff that support the operation of the courts, and those who provide court-mandated services to survivors. The formal justice sector may also include non-court mechanisms, such as [arbitration](#), [mediation](#), or [restorative justice](#).

Law enforcement officers, such as police, also interact closely with both the formal and informal justice sector. For more information on law enforcement see the [Security Sector](#) module on this site.

## ***Informal Justice Mechanisms***

Informal mechanisms derive their power from social groups or community structures and are not a part of the government. Social groups and structures can include specific ethnic or faith communities, rituals or traditions, indigenous governance systems, or local community organizations.

The informal justice sector often has at its centre leaders or decision makers who are chosen by the community that uses the mechanism. These leaders may preside in settings much like a court or may operate in an altogether different environment (such as a community gathering place or a private home). They may be paid by the parties, by an outside entity, or may provide their services free of charge as part of their expected role in the community. The community and the public at large also often play an important role in informal proceedings and enforcement of decisions.

**Informal justice mechanisms pose many risks to women and girl victims of violence** (see box for details). However, there is general consensus that simply outlawing practices or mechanisms without public education and awareness is the least effective means of reform in the informal sector. Changing the law in combination with ongoing education and provision of alternatives is a preferable strategy.

### **The Danger of Restorative Justice in VAW Cases**

Restorative justice practices are used in both the informal and formal justice sectors around the world. There are significant concerns relative to using restorative practices in cases of violence against women. These processes can minimize the effect that violence has had in women's lives, can perpetuate discrimination against women, and can risk women giving up their individual rights so as to preserve harmony within a social group. There is often an imbalance of power between survivor and perpetrator in cases of violence against women, so restorative justice practices can create risks associated with bringing the survivor and offender together for negotiation and dialogue. This has not precluded restorative justice practices from being used around the world for cases of violence against women, including domestic violence. Women may be pressured to use these mechanisms or may use them when formal justice mechanisms are not readily available.

### **The Dangers of Mediation in VAW Cases**

Mediation (sometimes referred to as conciliation) is used in both the formal and informal justice sectors, despite expert recommendations that it not be used in cases of violence against women. Mediation can be extremely problematic and indeed dangerous in cases of violence against women, especially in cases of domestic violence. Cases of violence against women involve unequal power relationships between the parties, based on acts of assault, violent intimidation, and/or controlling, abusive, or humiliating behaviour. Mediation assumes that parties approach the process with equal resources

and power – which is often not the case in these situations. In fact, many experts recommend that laws prohibit mediation in cases of violence against women. For example, the 2011 [Council of Europe Convention on preventing and combating violence against women and domestic violence](#) prohibits “mandatory alternative dispute resolution processes, including mediation and conciliation, in relation to all forms of violence” covered by the convention (Art. 48).

Nevertheless, mediation continues to be used in many cases of violence against women in countries around the world. **Any justice reform programme with a mediation component should strictly comply with the following:**

- **All those involved in facilitating mediation should be trained in the dynamics of violence against women, particularly domestic violence.** Training should include the strong message that even after training, mediators likely will not be able to recognize all cases of domestic violence or equalize power imbalances once mediation has started.
- **Mediation programmes, whether in the formal or informal sector, should include a screening process to identify and refer cases that are inappropriate for mediation.**
- **Women should always be allowed to opt out of mediation processes, and should be provided with resources to support them in doing so.**
- Parties in mediation should be encouraged to have supportive persons accompany them to sessions and seek outside legal counsel.
- Parties in mediation should be given the option of shuttle mediation, where they do not have to be physically present in the same space during the process.

The principles above should be kept in mind anytime mediation is used. Further, the American Bar Association has promulgated [Model Standards of Practice for Family and Divorce Mediation](#) that contains helpful guidelines relative to dealing with violence against women in the mediation setting.

Sources: The Advocates for Human Rights. 2010. *StopVAW - Mediation*; United Nations. 2009. [UN Handbook for Legislation on Violence Against Women](#); Amnesty International. 2008. [Women’s Struggle for Justice and Safety in the Family](#); Ellsberg. 2001. [Towards an Integrated Model of Care for Family Violence in Central America](#).

## **Canada: Working Group Recommendations for Restorative Justice in VAW Cases**

In Canada, where restorative justice practices have been incorporated into the formal court system over the past several decades, there has been much debate about the use of restorative practices in cases of violence against women, especially domestic violence. For example, the [Aboriginal Women’s Action Network](#) has recommended a moratorium on the use of restorative justice in cases of violence against women and children, while some other aboriginal and non-aboriginal groups have been supportive of developing restorative justice options. In response to the concerns, the Department of

Justice in Canada created a working group to develop recommendations about how restorative practices might be appropriately used in cases of domestic violence. The recommendations stated that restorative justice practices in spousal abuse cases should not be used except in the following circumstances:

- **the restorative justice process offers the same or greater measure of protection of the survivor's safety as does the criminal justice process;**
- the referral to the restorative justice process is made after the perpetrator has been charged with a crime and with the approval of the prosecutor;
- trained and qualified personnel, using validated [risk assessment](#) tools, determine that the case is not high-risk (in other words, if after a consideration of a variety of factors, including any history of violence, threats of serious violence, prior breaches of protective court orders, the use or presence of weapons, employment problems, substance abuse and suicide threats, the offender is assessed to be at low risk of re-offending and therefore of low risk of harm to the survivor's safety, as well as that of her children and other dependents, both throughout and after the process);
- the survivor is **fully informed** of the proposed restorative justice process and her wishes are taken into consideration. In addition, **survivor consent is required** and survivor support must be provided where the survivor will be asked to participate in the alternative justice process;
- the offender fully accepts responsibility for his action;
- the restorative justice process is part of a programme approved and overseen by the government for the purpose of providing restorative justice responses to spousal abuse;
- the restorative justice process is **transparent** (that is, it maintains formal records of the actions taken by those engaged in the process) and it is undertaken in a timely and reasonable manner;
- **the restorative justice process has the capacity to deal with spousal abuse cases and is delivered and supervised by persons possessing the requisite skill, training and capacity, including the ability to recognize and address any power imbalances, as well as cultural differences;** and
- **the possibility of criminal conviction and sentence remains if the process fails.**

**The Working Group found that use of restorative justice processes in cases of violence against women should also be supported by the following activities:**

- development and delivery of ongoing training for those involved in conducting [risk assessment](#) and the delivery and supervision of the alternative justice processes and programmes, including criminal justice personnel;
- development and application of validated risk assessment tools for spousal abuse cases; and
- ongoing [monitoring and evaluation](#) of alternative justice responses, including of those used in spousal abuse cases, against new evidence-based research on the effectiveness of these processes, their ability to ensure the safety of the survivor and her children, and their ability to reduce the likelihood of re-offending.

Sources: Department of Justice, Canada. 2001. [Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation](#); Ptacek. 2010.

### **Hybrid Justice Mechanisms**

Hybrid mechanisms (not to be confused with hybrid courts) have characteristics of both informal and formal mechanisms. These entities may have started out as community-based systems but have been integrated in part into the judiciary and regulated by law (UK Department for International Development, 2004). The Local Council Courts in Uganda are one such hybrid mechanism – they began as local “resistance” councils during Uganda’s civil war in the 1980s. They operated in areas where the state had lost control and were composed of members elected by all the adults in a particular village. The resistance council would also act as a case resolution mechanism. After the regime change in Uganda resistance council courts were formally incorporated into law and now are known as Local Council Courts (Penal Reform International, 2000). The Local Council Courts handle civil matters arising out of daily activities within their jurisdiction or matters arising out of violations of local by-laws.

Another hybrid-type mechanism is common in the formal justice systems of settler societies, such as the United States and Canada. These formal justice systems have integrated some types of indigenous case resolution mechanisms into their processes. For example, the courts require that some cases go through a community-based mediation process before a case can be filed in the formal courts; these mediation processes are often state approved and state funded. Other formal courts have incorporated practices based on community traditions into the procedures of the formal courts.

### **Rwanda – Development of Hybrid Justice in a Post-Conflict Context**

The *gacaca* courts, which were put into place in Rwanda after the genocide in that country, are an example of an adaptation of a traditional justice mechanism which was incorporated into the formal system of justice. Meaning literally, lawn or on the grass, the *gacaca* courts take place outdoors in thousands of locations around the country. Women were the majority of survivors and witnesses to the violence in Rwanda. Moreover, rape was used as tactic of genocide in Rwanda, so women’s participation and accountability for violence against women was a primary concern in the *gacaca* system. Although in the past women were not permitted to serve as *gacaca* judges, the government has now required that at least 30 per cent of the judges be female.

The treatment of sexual violence in the Rwandan transitional justice system has been complex and raised concerns. The government classified sexual violence as a Category One crime under the *gacaca* law, along with the other most serious violations, including planning the genocide. For Category One crimes, initial testimony and evidence is collected in community *gacaca* hearings but then prosecution of Category One crimes takes place in the formal judicial system. Although the formal courts hand down more

severe sentences than *gacaca* courts, they are slower moving and more difficult for victims to access, in terms of both travel time and expense.

The *gacaca* courts did not hear genocide-related rape cases until 2008, when the government transferred them from conventional courts to *gacaca* courts. This decision seriously undermined the original goal of protecting victim privacy and though the sessions were to be held “behind closed doors” victims believed that because the judges were members of their community and in some cases related to the accused, confidentiality was not possible. Importantly, *gacaca* courts, unlike conventional courts, do not offer civil damages. Women who participated also noted the corruption evident in the process, the offering of bribes, the lack of impartiality, and the difficulty in getting witnesses to appear in a *gacaca* process. However, some victims appreciated the right to bring an advocate and a friend to the hearing and the opportunity to see the communal rooms where their trial would be held ahead of the actual trial. And, some victims utilized the opportunity to present their allegations in letter form to the court, which would not have been possible in a conventional court setting.

Adapted from: UNIFEM. 2009. [Gacaca and transitional justice in Rwanda](#) and Human Rights Watch. 2011. [Justice Compromised: The Legacy of Rwanda’s Community-Based Gacaca Courts](#).

## How do the formal and informal sectors interact?

The formal and informal justice sectors overlap substantially and interact in important ways. Individuals who seek a remedy for harm may do so in a number of different ways, and may try several different formal and informal methods of resolution over time (Wojkowska/UNDP, 2006). This is particularly the case for women confronting violence, the vast majority of whom may confront problems of access and discrimination in both the [formal](#) and [informal justice system](#). Below are some common ways in which formal and informal justice systems interact and are linked:

### ***Law and Regulation***

Formal and informal justice systems may be linked through law and regulatory mechanisms. For example, in many countries, informal justice practices are recognized in the constitution or through legislation. The informal system may not only be recognized, but may also be regulated by the formal sector. For example, many constitutional and legal provisions recognizing the informal sector do so only to the extent that informal sector practices do not violate constitutional provisions or other fundamental rights protections. For more information see [addressing conflicts between customary and formal laws](#).

Legal recognition and regulation of informal systems may also lead to the results of proceedings in the informal sector being registered with the formal sector. For example, customary marriages would become officially registered, thus allowing the state to better monitor and prevent child marriages.

## ***Jurisdiction***

Formal and informal systems may be linked through division of, as well as overlap in, jurisdiction, meaning the types of cases they deal with. This designation of jurisdiction may be established in law or through custom. Even if there is no official law stating which mechanism can deal with which kinds of cases, civil matters, community-level cases, and family cases may be addressed by informal mechanisms. Crimes that are perceived as “more serious” or violations of rights by the state or corporate actors are often addressed by the formal system.

Violence against women, such as domestic violence, is often erroneously viewed as “less serious” and relegated to the informal sector. Division of jurisdiction can also lead to gaps that leave women without effective access to justice in any forum. For example, in the United States for many decades, victims of violence in tribal Native American communities were often left without recourse to the criminal justice system because of jurisdictional confusion. Changes in U.S. law have begun to address this problem with passage of the [Tribal Law and Order Act](#) in 2010. Although in very early stages of implementation, the act allows for tribes to request that the federal government to exercise jurisdiction over crimes committed on tribal reservation when the tribe feels that the state is not responding effectively to the crime, a recurrent problem with crimes of violence against women. A Federal/Tribal Violence Against Women Task Force has been created. The Act also requires the government to produce a report assessing the capacities of institutions in tribal areas to respond to sexual assault and domestic violence and to make recommendations to the national legislature to address capacity gaps. For more information go to the website of the [Tribal Law and Order Resource Center](#).

## ***Funding***

Formal and informal systems may be linked because their funding may come from the same source, such as a government ministry. For example, in Kenya, the government funds the formal state judiciary but, under a constitutional provision, also provides some funding to the Khadis courts. The Khadis courts are a hybrid justice mechanism for Kenya’s Muslim community, though they do not apply *sharia* law, and were created out of an agreement at the time of Kenya’s independence (Wagner, 2010).

Shared funding sources may result in less vigorous performance within the informal sector. If yearly programme funding is seen to be dependent upon the nature of relations between the sectors, there may be a reluctance to challenge the efficacy of formal systems and to press for procedural change.

## ***Procedure***

Informal and formal systems may be linked procedurally. For example, many justice systems create mechanisms by which parties can appeal decisions made by the informal sector to courts in the formal sector. For example, in Tanzania community-level arbitration tribunals settle many cases. The tribunals are managed by local officials who

are not part of the judiciary, but decisions may be appealed to the formal courts. The formal sector also may incorporate procedural characteristics from the informal sector, such as more public participation and less legalistic procedures, in order to increase accessibility.

### ***Enforcement***

Formal and informal systems may draw on the other's power in order to enforce judgments. For example, formal courts in Canada and elsewhere have drawn on the threat of community sanction through sentencing circles or mediation models to attempt to enhance compliance with sentences that do not involve incarceration but may involve behaviour change and other restorative remedies. Likewise, informal justice systems often invoke the threat of state intervention in order to enhance compliance with measures recommended by informal mechanisms. For example, case resolution practitioners known as Peacemakers within the Navajo Native American tribal community in the United States may remind offenders of a woman's or girl's right to seek a remedy in the formal courts if Peacemaking fails to reach a resolution (Coker, 2006).

### ***Personnel***

The same personnel may participate in both informal and formal systems in different, or even similar, capacities (Clark & Stephens, 2011). Paralegals often play this role, and in some countries they are being specifically trained to do so. Paralegals often have an understanding of both the formal and informal systems in a given locality and can provide a bridge between the two. Government officials may also play important roles in informal legal systems, from police and judges participating in sentencing circles, to local administrative officials being included as arbiters in indigenous justice mechanisms. Or officials may play the same role in both a state-sanctioned informal justice system as well as a similar parallel system outside of state control. In Tanzania, where traditional justice mechanisms are longstanding, local level magistrates in the formal system were required by law to consult village elders on cases in order to increase legitimacy in the community (Chirayath, 2005).

### ***Choice of forum***

The extensive linkages between the formal and informal system may lead individuals to "shop" for justice across sectors in order to find the solution that will meet their needs based on cost, accessibility, perceived fairness, and available remedies. (UK Department for International Development, 2004). Individuals may go back and forth between the two systems, or may progress from very informal mechanisms to highly structured state-sponsored courts. Although multiple forums may theoretically be available, many women around the world still have few [real options for justice](#) because of the discrimination they face or because of social or logistical pressures that force them to use only one of the many forums available. This is particularly the case for women in some religious or ethnic communities. In Afghanistan for example, women



often have no real options for justice other than traditional mechanisms, such as male-dominated jirgas. Programmes implemented by [UNIFEM \(now UN Women\) in partnership with local organizations in Afghanistan](#) attempt to increase women's options by training female paralegals, providing court accompaniment, and providing legal assistance services. (UNIFEM-Afghanistan, 2008).

## **What is known about working with the justice sector on violence against women and girls?**

Some information is available about working with the formal justice sector on gender issues, though less explicitly on violence against women – much also remains to be evaluated and assessed. Less is known about the [informal justice](#) sector and ways that it can effectively be engaged to end violence against women and girls. However, the body of knowledge related to engagement with the informal sector is growing.

The research and evaluation literature is most developed in the area of how formal courts can address domestic violence and sexual assault. Much of this work has been done in the United States over the past 30 years, and in the U.K. and Australia more recently, but research from other regions continues to emerge.

**Evaluating justice reform initiatives must focus on whether women and girls are safer and whether perpetrators are held accountable. An important measure of success is whether or not the human rights of women, as stated in international agreements such as [CEDAW](#), are upheld** (UN Women, 2011). (The international framework of treaties and standards protecting women's rights can be found on the UN Women [website](#)).

Victim's assessments of these factors are the most important part of any evaluation. Measures of success may be increased penalties for violence, reduced reports of violence, increased consistency of procedures, more collaboration between agencies, more cases moving through the formal system, and fewer cases moving through the informal system. Because there are so many ways of evaluating success, results from across regions and across issues are difficult to compare and draw clear lessons from. In addition, evaluations often find that programmes have not been implemented as planned and thus determining whether the planned intervention would have had an impact is impossible (e.g. Cashmore and Trimboli, 2005; McGrew and Doung, 2010).

Despite these measurement challenges, the literature reflects general agreement on certain principles of justice sector reform and some important areas of agreement about specific models of justice delivery. For example, when victims are accompanied by trained advocates or lawyers as they access the courts, [victim experiences improve](#).

### ***Consistency and reliability in justice sector responses can improve outcomes for women:***

Research suggests that women may use the justice sector as one tool in an array of resources to cope with and reduce damage from the violence they experience.

- Increasing the consistency of messages and results that victims and perpetrators receive from justice mechanisms assists women in achieving positive outcomes in the long term because they can count on a consistent response when they need it (Kelly, 1989).
- Hearing consistently that women deserve to be safe and that perpetrators will be subject to sanctions is a powerful role for the justice system to play (Kelly, 1999).

***Coordinated community response leads to positive outcomes:*** Communities that have implemented [coordinated response programmes](#) describe a variety of positive outcomes including:

- increased coordination and communication,
- increased arrest rates,
- increased use of “real” penalties such as jail or probation,
- increased prosecution rates, reduction of dismissed charges,
- victim follow-through on prosecutions,
- increased prosecution rates, and
- increased victim satisfaction (Holder, 2001).

For example, a coordinated community response programme in the New Zealand city of Hamilton received very positive evaluations:

- the arrest rate in domestic violence incidents increased by two-thirds, though compliance with protocols was often low and required persistent monitoring;
- prosecutions generally were successful;
- sentencing of convicted offenders was consistent;
- perpetrators who completed the men’s programme were positive about it, despite initial resistance, and referrals to the programme increased by 83% in the second year, including self-referrals; and
- victims of domestic violence and their children were well-supported,
- victims’ safety was enhanced; and
- women were very satisfied with the intervention (Stewart, 2005; Robertson and Busch, 1993; Shepard and Pence, 1999).

***Specialized courts and procedures positively change the way cases are handled:*** Evidence supports the creation of special courts to handle only cases of violence against women, specifically domestic violence and sexual assault. For example, a 2004 study in the UK revealed notable positive results from the use of specialized courts for domestic violence, including increased:

- effectiveness of court services and support services for victims,
- victim participation and satisfaction, and
- efficiency and better [information sharing](#) (Cook et al., 2004).

Even when specialized courts are not created, implementing special measures for cases of violence against women, such as court procedures designed to move violence against women case through the system quickly (fast-tracking), have achieved powerful results.

- In a study in Wales, UK, new court procedures reduced the length of average domestic violence court processes by half, compared to typical criminal processes (Robinson, 2003).
- In South Africa, studies on sexual offences courts revealed an average 70% conviction rate, which is well above the national average. In addition, the courts were viewed in a positive light by the legal personnel involved, the families of the survivors, and the survivors themselves. As of 2007, 59 sexual offences courts were in operation ([Kruger and Reyneke, 2008](#); Sadan et al., 2001)
- Studies also documented infrastructure improvements, such as equipment to enable witnesses to testify via video as well as separate waiting rooms. (Mossman et al, 2009).

The South African experience with specialized courts provides lessons learned about continuing improvements that can help increase the efficacy of specialized courts (Mossman et al., 2009; Vetten, 2001; Rasool, 2000):

- **Better addressing the needs of victim/survivors** – ensuring easily accessible and culturally appropriate psychosocial support so as to avoid retraumatization.
- **Continue to develop capacity** – ensuring that there are sufficient trained staff so that survivors do not have to encounter lengthy delays before their case gets a hearing.
- **Increase reliability and consistency** – ensure that judges have sufficient training and broad experience, so that their decisions on the narrow specialized docket are credible; develop clear procedural guidelines for officials to promote consistent and reliable service.
- **Insufficient infrastructure** – support the allocation of sufficient space at courts so that separate and secure waiting rooms as well as specially designated court rooms can be set aside.

It is important to be aware of some of the potential for abuse of specialized courts. In some countries, specialized courts have been used to discriminate against women by relegating female judges to work only in specialized family courts and disallowing them from working in other parts of the judicial system. For more on [specialized courts](#), see the [Legislation](#) section.

***Specialized prosecutors can reduce barriers to justice:*** Designating particular individuals to handle violence against women prosecutions, or training a team of prosecutors on the special dynamics of cases also has proven effective in some cases (Cossins, 2007; Walker and Louw, 2003). Prosecutors may delay processes and hamper access to justice for women and girls when not appropriately trained regarding effective prosecution strategies for cases of violence against women.

- An evaluation of a programme in Wales, UK for example, demonstrated positive outcomes when prosecutors were trained in new protocols for domestic violence cases and were trained to work closely with a women's support and advocacy centre (Robinson, 2003).

- Research from the United States is more equivocal, showing that sexual assault charging decisions between specialized and non-specialized prosecutors divisions were basically identical (Beichner and Spohn 2005).
- The same U.S. study found that although there were differences in departmental policies and rates of plea bargaining and trials between the specialized and non-specialized unit, victim credibility was the real “focal concern” of the prosecutor in sexual assault cases.

For more on specialized prosecutors, see [establishing special prosecutor units](#), and the [Legislation](#) section.

***Victim advocate programmes can reduce violence and support follow-through:***

- Matching victims with advocates to support them through the process of seeking justice and safety has been shown to increase follow-through on prosecutions and to reduce the amount of future violence in the lives of women who had left abusive relationships (Sullivan and Bybee, 1999; Goodman Bennett and Dutton, 1999).
- Victim advocate programmes also have been shown to be effective in supporting victims of sexual assault, specifically by reducing the number of case withdrawals, and as a part of integrated victim support centres (Lovett et al. 2004).

For more on victim advocate programmes, see establish [dedicated court-affiliated centres for women and girl survivors of violence](#).

***Training and capacity development can change practices:*** Training on how to effectively incorporate women’s rights into justice processes has proven effective in some settings.

- An [evaluation](#) of a capacity-building programme in Indonesia that provided civil society groups, justice sector personnel, and local communities with a guidebook and matrix comparing formal and informal legal principles related to fair treatment of women documented widespread use of the materials and reference to the provisions therein (Harper/IDLO, 2010).
- Training for judges on instruments that protect women’s human rights has resulted in the citation of those human rights documents in judicial opinions among trainees (IAWJ, 2010).
- Increasing the capacity of local level mechanisms in Cambodia to provide alternative case resolution while also providing community education on women’s rights led to high levels of participant satisfaction (McGrew and Doung, 2010).

For more detailed information, see the section on [training](#).

***Restorative justice programmes remain controversial:***

Much of the analysis of [restorative justice](#) for cases of violence against women has been conducted in relation to Canadian programmes. Canadian restorative justice mechanisms include sentencing circles and victim-offender mediation, for example. But

there have been no systematic evaluations of most of the types of restorative mechanisms in use there. Many restorative programmes for violence against women have been difficult to evaluate because of the small number of cases. See also the special box on the dangers of [restorative justice](#) in cases of violence against women.

*Victim-offender mediation:*

Research related to mediation where there has been intimate violence within the relationship is largely negative (Cameron, 2005). There is a significant body of literature that indicates women in these circumstances are likely to be re-victimized, intimidated, and abused by the men they are in mediation with (e.g. Kreiger, 2002; ver Steegh, 2003). See also the section on [dangers of mediation](#) in cases of violence against women for more information.

## GUIDING PRINCIPLES

### ***Base programmes on internationally recognized human rights principles***

Human rights principles are enshrined in treaties and conventions, as well as guidelines and standards based on broad international consultation and consensus. Governments must take measures to protect women from violence, to prosecute acts of violence, and to prevent further acts of violence. If a state fails to act, it is responsible under the [international agreements](#) which proclaim women's human rights. This is the foundation for evaluation of all justice sector mechanisms. **Organizations should observe international standards of women's human rights for engagement with justice sector mechanisms, formal or informal, that cannot be compromised.** This baseline dictates that (1) no one should be subject to discrimination on the basis of sex or other status (such as, race/ethnicity, income level, urban or rural residence, sexual orientation, ability, and so forth) by any justice mechanism; and that (2) physical punishments such as beatings or stonings must be prohibited.

In cases of violence against women, another baseline requirement for justice mechanisms is that women's safety and the safety of their children, as well as perpetrator accountability, must be the primary conditions for interaction with either formal or informal systems of justice. **Justice sector reform efforts should focus on continually reminding the state of its responsibility to proactively promote and protect the human rights of women and girls.**

### ***Prioritize the physical and psychological safety of women and girls***

Many survivors do not report violence for fear of further violence by the perpetrator, their family, or the community and because of the harmful stigmas wrongfully attached to experiences of violence. The justice sector should work to enhance survivor safety at all stages through development of safety and confidentiality protocols for formal and informal sector personnel, use of [risk-assessment guides](#) (in particular for [perpetrator programmes](#)), design of secure spaces for women and girl survivors to report abuse and obtain support, and provision of free legal assistance to survivors so as to facilitate access to justice.

### ***End impunity for perpetrators of violence***

Perpetrators, and leaders who order, ignore, encourage, or acquiesce in violent acts, should be swiftly held accountable for all acts of violence. Justice sector reform should focus on determining who is in the best position to give meaningful consequences for perpetrators of violence. Most often this will be the formal justice sector, through use of criminal penalties. In some cases, such as eliminating harmful traditional practices, community-based sanctions and normative changes may be effective. Programming should convey a message of zero tolerance for violence. Care must be taken to ensure that such programming is not directed solely at women and girls, but contains specific elements designed to help young men understand that cultural change needs to occur if the cycle of violence is to be broken. See [Men and Boys](#) module. When domestic accountability is impractical or impossible, regional, hybrid, or international accountability mechanisms should be considered.

### ***Demonstrate and encourage a norm of respect for survivors***

Survivors often are ignored, dismissed, or disbelieved by justice system actors. Programmes focused on changing this paradigm should first ensure that their own work is designed to be respectful of survivors' experiences by including survivors in programme design, implementation, monitoring, and evaluation. Survivors should be treated with courtesy, respect, and particular sensitivity to the trauma they have experienced. Encouraging justice mechanisms to enhance security, privacy, and advocacy and support services for survivors (such as court accompaniment) can be important ways to demonstrate a norm of respect and caring for survivors. Also, programs will be more effective if survivors are included in planning and design in a respectful way. Justice systems should also be encouraged to understand the gendered nature of crimes of violence against women, by providing training and education that places these crimes in the context of women's roles in society and discrimination against women generally.

### ***Adopt a holistic strategy for reform***

Effective justice sector reform requires collaboration between an array of stakeholders, including the judiciary, ministry of justice, traditional and customary systems, parliament, prosecution and investigative authorities (including the [police](#)), health professionals (especially those responsible for [forensic evidence collection](#) and medical documentation of injuries), lawyers associations, legal assistance, corrections/prisons, other ministries including the ministry of the interior and women's ministries, law schools, civil society organizations, including women's groups, religious groups, and non-governmental organizations. Strategies for reform should reflect an awareness of comprehensive access to justice issues, including how changing norms (law, policies, customs, and traditions), increasing the capacities and knowledge of users of the system, increasing the capacities and knowledge of functionaries of the system, and changing the ways in which key structures operate all can contribute to improving access. See the [Programme Planning and Design](#) section for more information on capacity development. A holistic approach that addresses **physical access**, such as establishing courts in rural areas or developing mobile courts that travel to remote areas on a regular schedule, **financial access** such as eliminating all costs and fees for cases involving violence against women, and the **likelihood of access** to the justice system, such as ensuring that women know their rights, should inform programming.

### ***Understand and address concerns about mediation and restorative justice***

The [UN Handbook for Legislation on Violence Against Women](#) recommends that laws prohibit mediation in cases of violence against women. Nevertheless, mediation is used in many cases of violence against women in countries around the world. **Mediation can be extremely problematic and indeed dangerous in cases of violence against women, because it is predicated on parties with equal negotiating power, which is often not the case in situations of violence against women and girls. Similar concerns apply to the use of [restorative practices](#), which can minimize the effect**

that violence has in women's lives, can perpetuate discrimination, and can risk women and girls giving up their individual rights so as to preserve harmony within a social group.

***Use monitoring and evaluation to inform programme design and implementation***

Given the complexity of the justice sector, regular monitoring to assess how systems, policies, laws, and processes can be improved is important. Monitoring and evaluation should feed back into programming on a regular basis and should be designed to ensure that programmes are having the desired impact without introducing unintended negative consequences for women.

**Example:** A Canadian project currently underway in three provinces (Ontario, British Columbia and New Brunswick) convenes Domestic Homicide/Fatality Review Committees when an individual case results in death. Reports are published annually and there is solid evidence that these careful examinations of what went wrong or what supports were inadequate is having a positive impact on system-wide reform. Download the 2009 report from Ontario in [English](#) or [French](#). Click [here](#) for more on monitoring and evaluation.



## OVERVIEW OF STRATEGIES

The time, resources, and creativity necessary to address access to justice for women and girls who are seeking redress for violence cannot be underestimated. There are several overarching types of reform activities that are used in justice sector reform initiatives whether in the formal or informal sector, including law reform, improved service delivery and access, training and capacity development, education and awareness-raising, and oversight and monitoring.

### ***Law Reform***

- Constitutional reform
- Changing formal legislation or customary laws
- Promulgation of new procedural rules or regulations

For detailed information on drafting, passing, and implementing laws on violence against women see the [Legislation](#) section.

### ***Service Delivery and Access***

- Court accompaniment programmes involving trained advocates to assist victims in accessing courts
- Increased training of and use of paralegal personnel to assist victims and to navigate between formal and informal sectors
- Traveling courts to reach rural areas
- Development of or increased support for legal assistance, including immigration support, pre and post court assistance, networking with civil society organizations (CSO), childcare support, witness protection, counseling, shelter, and access to healthcare, for example
- Specialized courts for violence against women and girls
- Fee waivers and reductions
- Translation services and staff that are knowledgeable/sensitized to diverse populations and gender violence issues.

### ***Training and Capacity Development***

- Training for judges, prosecutors, and informal sector actors about dynamics of violence against women and how it differs from other crimes that are not based on gender
- Technical assistance, consultation, and training for justice sector actors on effective protection and resolution of VAW cases
- Training for informal sector actors about laws and process in the formal sector and vice versa
- Introducing law students to informal justice systems
- Increasing technical, managerial, financial, and administrative skills of civil society groups that interact with formal and informal sector

- Training paralegals on how and when to bridge the formal and informal sectors
- Developing infrastructure and record-keeping capacity
- Developing adequate capacity to provide the requisite follow-up supports

### ***Education and Awareness-raising***

- Rights-based education for women, girls, and other community members
- Literacy and legal empowerment training for women and key local actors in formal or informal sector, e.g. justices of the peace (UN Women, 2011).
- Increasing availability of information about formal justice sector options for violence against women and girls

### ***Oversight and Monitoring***

- Establishing specific national or regional bodies, such as gender ombudsman offices, national equality councils, working groups on gender, or ministries of gender and family to monitor and report on gender issues in the justice sector
- National or regional collaboration of civil society groups to work as an observatory on the justice sector response to violence against women
- Engaging international partners to assist in [monitoring justice sector](#) response to violence against women and to raise the profile of critical issues on the international stage
- Training survivors and other women to carry out monitoring of informal and formal sector mechanisms
- Promoting an increase of targeted research on the justice sector, particularly regarding the informal justice sector

**Example:** In Latin America, a number of human rights ombudsmen offices at the national and provincial levels monitor and accept complaints against the state related to violence against women. For a list of these offices, see the Inter-American Institute of Human Rights [Website](#).

## PROGRAMME PLANNING AND DESIGN

This section provides information about planning and designing a programme aimed at reforming the justice sector to improve its response to violence against women. It is essential to work through a programme planning and design process before instituting any reform effort. Programme planning and design will help practitioners:

- Gain a complete picture of the problem to be solved, its causes and effects, and how it is related to other issues;
- Develop clear goals and objectives by which to chart progress;
- Accurately estimate the time and resources that will be needed to achieve objectives;
- Bring partners to the process so as to ensure participation and buy-in from all key stakeholders; and
- Develop a monitoring and evaluation plan to continually improve and document the successes and challenges associated with the work.

This section describes several steps in a programme planning and design process.

- Step 1: Conduct an Appraisal
- Step 2: Define and Prioritize Goals
- Step 3. Plan for Participation and Partnerships
- Step 4: Select A Strategy or Strategies
- Step 5: Incorporate Monitoring and Evaluation
- Step 6: Develop a Workplan and Budget

The steps need not be carried out in exactly the order that they are presented, indeed generally these steps will not be linear but will operate in a feedback loop as the programme develops and new issues emerge. These processes may operate simultaneously or planners may revisit a specific process or tool as programme ideas develop and are solidified. It will also be important for programme planners to consider other key issues as the programme is planned and developed (Fitzgerald, 2011), such as:

- **scope planning and definition** (who ultimately decides what the program will and won't do?)
- **quality planning, control, and assurance** (how will the program meet standards?)
- **risk identification, assessment, planning, and response** (how will the program get through or around dangers to success?)
- **communications** (how will the program give the right information to the right people?)
- **cost and schedule control** (how will the program avoid going over budget and over time?), and
- **change control** (how will the program adapt to changed circumstances?)

## Step 1: Conduct an Appraisal

One of the first steps in any justice sector reform initiative should be a situational appraisal, sometimes called a needs assessment. General information on needs assessments/situational appraisals is available in the [Programming Essentials](#) section. A situational appraisal is focused on understanding the causes and consequences of the problem. It also documents the relationship of the problem to other issues, reveals important stakeholders, and identifies the specific human rights concerns involved. There are multiple ways to conduct a situational appraisal, depending on the context, the resources and time available, and the scope of the problem under consideration. Each method can reveal different types of information and will be more or less useful with different audiences. Selecting a combination of tools that will provide overlapping information is important to ensure that your appraisal is as accurate as possible. When multiple methods of information gathering all reveal the same problem, same causes, and same effects, programme implementers and advocates are in a good position to better define their strategies and to make the case to stakeholders, including government partners and funders, as to the efficacy and importance of this work.

### ***What kind of information should be gathered?***

The purpose of an appraisal is to gather as much useful information as possible to assist with planning an effective programme. Appraisals should gather information about:

- Legal framework, including national, regional, and international laws and standards;
- Access to justice concerns, including physical access, financial access and likelihood of access (i.e. social norms and gender dynamics);
- The justice mechanism's handling of violence against women cases (see questions below related to common indicators);
- Other actors operating in the justice sector, including the government, community groups, non-governmental and intergovernmental organizations, as well as donors; specifically examining opportunities for collaboration and possible duplication of effort (see [Partnerships and Networks](#) below);
- Political climate related to women's rights and justice, including allies and potential spoilers (see [Stakeholder and SWOT analysis](#) below); and
- Organizational capacities (see [Capacity Inventory](#) tool below).

Appraisals should specifically examine how violence against women is handled in both the formal and informal justice sector. Questions will need to be adapted based on the type of violence being examined (i.e. domestic violence, sexual assault, trafficking, FGM/C):

- How many cases of violence against women are seen in the system? How does the number of cases of VAW compare to the total cases in the system?
- What percentage of crimes are reported? What percentage of reported crimes are investigated and prosecuted? What percentage of cases end in conviction?

- Are decision-makers and practitioners aware of the national laws, local customs, and/or regulations that apply to cases of violence against women? Do they apply/comply with these laws and/or customs in cases that come before them? Why or why not?
- Can practitioners identify international human rights protections related to violence against women that apply in their country? Do they refer to those standards in cases that come before them?
- Can practitioners describe the procedures they use, or the policies they follow when handling a case of violence against women?
- How many system practitioners have been trained specifically on handling cases of violence against women? What has been the content of the training? How have actors in the formal and informal system reacted to these trainings?
- Does a referral network exist for cases of violence against women that are brought to the justice sector?
- What are women's perceptions of the formal and informal systems' handling of cases of violence against women, such as domestic violence?
- How do women seek help when they attempt to use the justice system?

Other general types of information to be gathered during an appraisal might include (UNDP, 2004):

- How independent is the judiciary? What is the legal and political balance of power between the judiciary and the executive? What is the size of the budget of the Justice Ministry? Is there an independent judicial organ to determine expenditure, appointments, promotions, demotions, and removal of judges? How stable are the positions of the judiciary and the clerical staff in the judicial system? Is the staff dependent on the Ministry of Justice, or other ministries?
- Are there accountability mechanisms within the judiciary and other parts of the justice system (e.g. lawyers, prosecution, police)? How effective are these?
- What is the situation of judicial training institutions and of legal education in general?
- What is the level of awareness of the justice system and legal remedies by the public, particularly by the poor and other vulnerable groups? Is there an existing public legal education and awareness programme?
- What factors prevent poor and other disadvantaged people from accessing the judicial system? Is the proposed programme addressing any of these factors?
- What risks and costs are incurred in accessing justice?
- Is there a purely formal justice system or does an informal justice system also exist? If so, what is the scope and jurisdiction of informal means of case resolution? What is the relationship between informal and formal justice?
- Is there a legal aid system in place? If so, what kinds of law and justice issues does it cover?
- What is the degree of financial support/resources devoted to the system? Is there a good balance of support to legal aid coming from both the state and civil society? Are legal aid services available in different parts of the country, particularly in the rural areas?

- Are there national human rights institutions? Are there remedies available for citizens affected by corruption or non-compliance with government policies? What mechanisms are available to citizens to make the police and prison officials accountable? Are there national, or sub-national bodies addressing discrimination? To what extent does anti-discrimination legislation, if any, reflect international standards?
- Is there a sector of civil society, directly involved in access to justice, legal aid, justice monitoring, and judicial reform?
- How are resources allocated within the justice sector? Is there a fair balance in the human and financial resources allocated to each of the levels and branches of the court system and to the different components (e.g. judiciary, public defense, prosecution, police, prisons) of the justice system?
- If corruption is endemic in the country, has the judiciary demonstrated a willingness to combat corruption within its own ranks, to promote new anti-corruption legislation, and/or to use existing legislation to eliminate corrupt practices?
- Do the political actors at the highest level, Justice Ministry senior officials, and Senior Justices actually want reform? Do the Home and Justice Departments cooperate with the criminal justice system? If not, have any steps been taken toward reform?
- What is the perception among civil society and the media of the executive's willingness to reform? What is the general perception among the international community of the nation's democratic reforms?

**Informal Sector Appraisal Questions:** The informal sector has some unique characteristics so the following questions should be considered as part of an appraisal or assessment of the informal sector.

A. Who controls access to the informal justice process?

- State
- Community
- Survivor
- Religious authority
- Traditional authority (e.g. village elder or chief)
- Other?

Explain how each of the above relates to the informal justice process:

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B. Who participates in the informal justice process? What roles do they play?

- Women
- Men
- Survivor
- Offender
- Public
- State officials
- Community leaders

Explain how each of the above relates to the informal justice process:

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- C. Who controls whether the informal justice process moves forward, the survivor, the offender, the state, or someone else?
- D. Who is allowed access to this mechanism?
- Specific ethnicity/tribe/religion only?
  - Adults
  - Juveniles
  - Men
  - Women
- E. Who monitors/enforces the outcomes?
- F. Who can monitor the process?
- G. Who funds the process?
- H. Under what authority does the process operate?
- Secular law (Constitutional, Civil, Criminal, etc.)
  - Religious law
  - State-sanction other than legislation
  - Tradition
  - Community agreement
- Explain how each of the above relates to the informal justice process:
- 

- I. How do changes take place within this justice mechanism? E.g. consensus, community-driven, solely determined by traditional leadership?

Practitioners should also consider these issues, especially if comparing the formal and informal sector (Penal Reform International, 2000):

- What are the major concerns of women, girls, and the community in relation to safety and security?
- What are the possible causes of these concerns?
- How do such concerns affect the whole or sections of the community?
- In what ways are cases normally dealt with?
- To what degree do the local police become involved?
- How satisfied are people with the response of the police?
- To what extent have formal courts been used? By whom? Involving what kind of cases?
- How satisfied are people with the way in which cases are dealt with under the formal system, for example, in terms of procedure and penalties, or the fact that cases are decided by a judge from outside the community?

- What constraints exist in using the formal courts? How could these be overcome?
- To what extent would use of formal courts increase if they were more accessible?
- Are people satisfied with the informal justice system? What are the reasons for their satisfaction or lack of it?
- Which aspects could be improved? How?
- How many cases are decided by the informal justice forum?
- What kinds of cases are heard?
- What is the procedure?
- How are the “arbitrators” or decision-makers mandated by the community?
- Is there any opportunity to change the arbitrators?
- What is the degree of support for the current arbitrators?
- What types of solutions or penalties are used? Are they appropriate?
- Are any records kept? Why are they kept, or not?
- Can a party refuse to attend, walk out, or refuse to abide by an agreement? Has this ever occurred? What was the outcome?
- In which ways and to what extent does the general public participate?
- Is the participation of women, children, and other groups sufficient and fair?
- How are women, children, and other minority status groups dealt with under the informal system? How should they be treated?
- What is the attitude towards the rights of women, children, and other groups?
- What aspects of the justice system have changed over time? What are the possible reasons for these changes?

### Gathering Data on Indigenous Peoples – Special Considerations

When gathering information about indigenous justice mechanisms and indigenous women’s access to justice, the following questions developed by the [International Indigenous Women’s Forum](#) (FIWI), should be considered:

- To what extent are collective rights (rights that inhere in the group, instead of with the individual) respected, protected, and fulfilled?
- Has the government committed itself to implementing the [Declaration on the Rights of Indigenous Peoples](#)?
- Do Indigenous Peoples govern their own territories, control their own natural resources, and enjoy food sovereignty?
- Do government policies respect the dignity of Indigenous women and their Peoples and avoid all forms of physical and structural violence against the bodies, homes, communities, and Peoples of Indigenous women?
- Do Indigenous women and their families have geographic, economic, and cultural access to government services such as: free, high-quality intercultural education in their own language; women healthcare providers that speak their language; water, sanitation, housing, and transportation; and processes of justice informed by intercultural and gender perspectives?



- Are resources devoted to the development of analytical paradigms, research methodologies, and training programmes that can enable relevant and useful disaggregated data to be collected from Indigenous women?
- Are economic and development policies implemented in compliance with the principle of free, prior, and informed consent?
- Is the military deployed within Indigenous territories?
- To what extent do women enjoy a positive Indigenous identity versus feelings of shame, inferiority, and internalized racism and sexism?
- Do Indigenous women locate themselves within a historical trajectory (i.e., in relation to past and future generations of their Peoples)?
- Do Indigenous women perceive their lives in relation to the ecosystems in which they live?

[Editor's note: The primary consideration for all women should be whether their human rights, including their fundamental right to be free from violence, are upheld.]

Source: International Indigenous Women's Forum (FIMI). 2006. [Indigenous Women Stand Against Violence: A Companion Report to the United Nations Secretary-General's Study on Violence Against Women.](#)

### Tools for Assessment and System Appraisal

- **Checklists for Assessing the Formal Justice System Response to VAW** (Battered Women's Justice Project, 1998). Available in English.
  - [Prosecution Response](#)
  - [Court System Response](#)
  - [Civil Justice System Response](#)
  - [Reproductive Health Response in Conflict \(RHRC\) Consortium Gender-based Violence Tools Manual](#)
- **Gender in the Criminal Justice System Assessment Toolkit** (UN Office on Drugs and Crime, 2010). Available in [English](#).
- **Criminal Justice System Assessment Toolkits** (UN Office on Drugs and Crime, 2011): Although not specifically focused on issues of violence against women, these toolkits provide helpful guidance on general assessment strategies for examining whether the public can access criminal justice. [Toolkits](#) available in English, French, Russian and Spanish.
  - [The Courts](#)
  - [Independence, Impartiality and Integrity of the Judiciary](#)
  - [Prosecution](#)
  - [Legal Defense and Legal Assistance](#)
  - [Victims and Witnesses](#)

- **Toolkit to Combat Trafficking in Persons** (UN Office on Drugs and Crime, 2008). See the criminal justice assessment tool #2.5 on page 47. Available in [English](#). See the website to download in [sections](#).

### **What methods can be used to gather appraisal information?**

- **Review of available documentation** – most formal and some informal justice mechanisms have record keeping systems that produce a paper trail that may be reviewed to assess how cases of violence against women have been handled. Review of reports by other entities, such as partner non-governmental organizations, as well as media reports can also provide valuable information for an appraisal. For example, see USAID's [Egypt Violence Against Women Study](#), which is a literature review that summarizes and analyzes existing documentation.
- **Community meetings** – holding small-group or community-wide meetings can be an important way to gather information about broad perceptions of justice issues, but it is important to remember that group opinion can be much different than the opinion and information that emerges from in-depth, one-on-one discussions with survivors and stakeholders.
- **Interviews** – an appraisal should include interviews with survivors, other stakeholders, judges/leaders/decision-makers, non-governmental organization workers and other civil society representatives, and state actors who supervise or interact regularly with the formal or informal system.
- **Observation** – taking the time to watch processes unfold as an uninvolved observer can provide important information that may otherwise be missed by parties who are deeply involved in a particular issue. Observational data can also include photographs or video that can be used later for advocacy, training, or public awareness campaigns. Observation should always be carried out with [ethical standards](#) for research on violence against women in mind, and should protect the confidentiality of all parties.

#### **South Africa – Tracking Justice Project**

The [Tshwaranang Legal Advocacy Centre](#) undertook one of the largest studies ever conducted tracking rape cases through the criminal justice system. The [Tracking Justice](#) study used random sampling to select a representative sample of cases from the nearly 12,000 rape cases reported to police in Gauteng Province in 2003. Case records were then obtained from the police, magistrates' courts, district courts, and high courts on the sampled cases. Only closed cases were used in the study.

Multiple data collection instruments were used in the study. The first data sheet recorded information from the police docket and was abstracted by a team of trained fieldworkers. Another data sheet was developed by a legal professional and legal researcher and was used to record information about those cases that went to court. If cases did not proceed to arrest and then trial, information was gathered on reasons for non-progression. The data sheet contained both closed and open questions. Closed questions were used for items where the range of responses was well defined, such as age, language, occupation, dates or where there were a limited range of likely responses e.g. use of weapons. Open questions were used for items such as circumstances of the rape, instructions given during the rape and actions taken afterwards.

Of the 2,064 cases in the study, half resulted in arrests (50.5%) but only 42.8% were charged in court. Trials commenced in less than one in five cases (17.3%). A conviction for any crime resulted in just over 1 in 20 (6.2%) cases. However, some of these convictions were for lesser charges so overall only 4.1% of cases reported as rape resulted in convictions for rape. 15.6% of rape convictions received less than the mandated 10 years minimum sentence. The other prescribed sentence for rape, life imprisonment, was very rarely observed. Thirty-four men (or 41%) convicted of rape were eligible for life imprisonment. This was handed down in only three cases.

The Tracking Justice study has been used for advocacy and education in multiple ways. Tshwaranang conducts training for forensic professionals, community advocates and others, using data from the study. Data has influenced government policy, specifically police practices, and the organization was asked to participate in the government's criminal justice policy review process. Finally, the data regularly informs litigation through amicus briefs in related cases.

Despite the powerful results obtained through this research, the principal investigator in the study notes that it remains difficult to push ahead with reform because the process is fundamentally dependent on political will. Even if training is conducted, systems must be put into place through political processes that allow individuals to act on their training. Reform of policies and national plans depends on political actors, and when those actors change, reform processes may come to a halt. In addition, funding to continue to track the impact of baseline research such as this has been difficult to obtain.

To find out more about Tshwaranang's research and advocacy on violence against women, including media articles, research reports, submissions government, policy briefs, and legal analysis to support court cases, visit their [publications page](#).

Sources: Vetten et al. 2008; Interview with Lisa Vetten, January 2011.

The following are some specific methods that can be used in an appraisal process, either in combination or alone. Other methods for information gathering are discussed throughout this section.

- [Domestic Violence Safety Audits](#)
- [Surveys](#)
- [Focus Groups](#)
- [Key informant interviews](#)
- [Court monitoring](#)
- [Human rights monitoring](#)

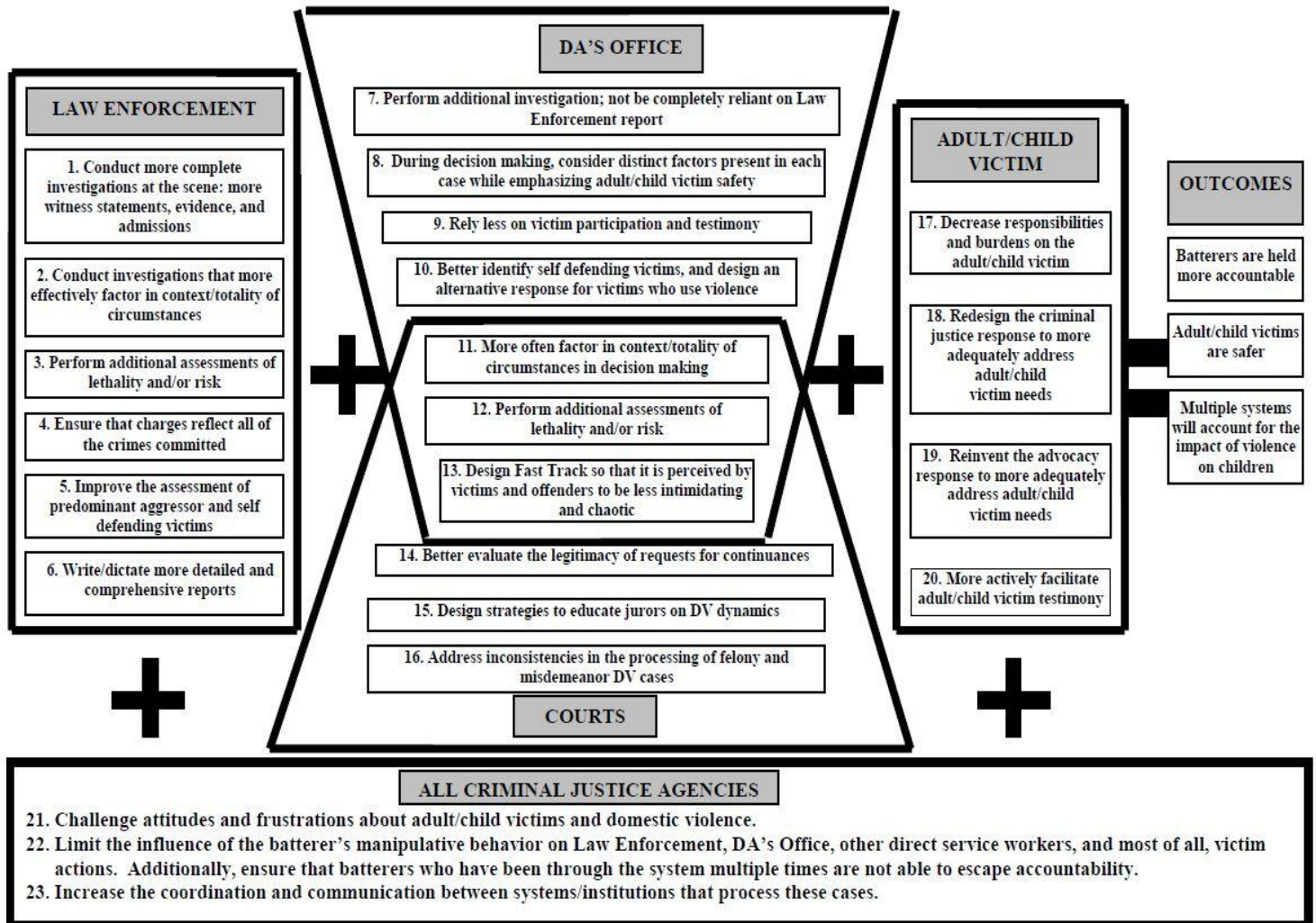
### **Safety Audits**

[Safety Auditing](#) is a tool developed by US-based [Praxis International](#) focused on the formal justice system response to domestic violence. An audit is a systematic review of policies, procedures, and practices. Safety Audits assess whether women's safety is actually promoted by the justice system policies and procedures designed for that purpose. A safety audit is conducted by a multidisciplinary team drawn from the institutions/systems being audited that examines whether work routines and ways of doing business strengthen or impede safety for survivors. The audit team reviews all aspects of an interagency response to violence and looks for gaps that may create safety risks for survivors. The audit is focused on understanding how 1) a survivor becomes a legal 'case'; 2) responses to that case are organized and coordinated within and across intervening agencies; and 3) risk factors and safety vary for each individual survivor. The audit team conducts interviews, observational research, and reviews the paper trail created as systems respond to victims. Analysis then focuses on how risks for women result from the systems that are in place and how those risks can be eliminated. This process provides critical feedback into the community response to cases of violence against women. Many resources including overviews, videos and testimonials are available from the [Praxis International Safety Audit Resources Page](#). Templates, illustrations, and worksheets outline the Safety Audit's philosophical underpinnings, clarify the data collection steps and methodologies, and provide a knowledge base for the team's work.

- See the [video](#).

The result of a Safety Audit generally is an extensive report, such as the [St. Paul Blueprint for Safety](#). More discussion of the Blueprint for Safety can be found in the [Legislation module](#). Graphic representation of gaps in the justice system that can negatively impact women's and girls' safety are also helpful outputs from the auditing process such as this graphic from a safety audit in the US state of Colorado.

**What information/factors can improve prosecutorial decision-making and case disposition in misdemeanor domestic violence cases, as it relates to adult/child safety and offender accountability?**



Note: DA is the acronym for District Attorney.

Source: 2007. [El Paso County, Colorado Institutional Safety and Accountability Audit Report](#), p.27.

### Surveys

Surveys can provide important information as part of an appraisal. Surveys can be relatively simple or highly complex. Regardless of size and complexity, surveys ask the same pre-determined set of questions of all participants. Surveys can collect both quantitative (numeric) and qualitative (narrative) information. Surveys can be mailed out to participants, sent via email or made available on a website, distributed at events, or administered face-to-face or via phone if resources and the context allow. Formal

survey research can be quite expensive and time consuming, but if an organization has a defined, manageable group of people (for example all judges in a particular province) from which it wants to gather information, a survey can be cost effective. Organizations may want to partner with a university or other experienced researchers to get advice about conducting a survey. Click on the link to view a sample survey instrument that was used as part of an appraisal related to reform on violence against women in Santa Clara County, USA, [Stakeholder Readiness Instrument](#), at Appendix 1.

It is also useful to draw on existing survey data for an appraisal. The [International Violence Against Women Survey](#) examined data from Australia, Costa Rica, the Czech Republic, Denmark, Greece, Hong Kong, Italy, Mozambique, the Philippines, Poland, and Switzerland and assessed:

- Prevalence and severity of violence
- Impact and consequences of violence for women
- Factors that are correlated with increased or decreased violence
- Experiences of disclosure of violence to police and others

The World Justice Project [Rule of Law Index](#) examines 35 countries worldwide and includes measurement related to four principles including:

- The government and its officials and agents are accountable under the law;
- The laws are clear, publicized, stable, and fair, and protect fundamental rights, including the security of persons and property;
- The process by which the laws are enacted, administered, and enforced is accessible, fair, and efficient;
- Access to justice is provided by competent, independent, and ethical adjudicators, attorneys or representatives, and judicial officers who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve.

The survey breaks these principles into 10 key factors, one of which focuses on informal justice systems.

The [Arab Regional Resource Center on Violence against Women](#) also gathers data and material on violence against women to help policy makers. The website is available in Arabic.

- ***Surveying Justice: a Practical Guide to Household Surveys*** (World Bank, 2010). This guide aims to be a practical starting point for justice practitioners interested in survey design, as well as survey researchers interested in incorporating justice questions into their work. It provides guidance on designing a survey, suggested topics and questions, and ideas to facilitate a constructive engagement in discussions around justice in development practice. Available in [English](#).

### **Cambodia – Survey Data Reveals Need for Change in Programming Strategy**

A Cambodian example demonstrates how data can reveal that programming assumptions have been incorrect. A large-scale, highly complex survey on violence against women in Cambodia was conducted in 2005 with the support of multiple international donor agencies. The study revealed that despite almost a decade of intensive work by multiple donor agencies and non-governmental organizations, the prevalence of domestic violence in particular had not declined. Through detailed examination of results of questions that asked Cambodians about attitudes, beliefs, and behaviours related to domestic violence, agencies working on the issue came to the conclusion that they needed to change strategy. Much programming had been focused on rights-based education for women, but the survey revealed that social attitudes in Cambodia justified men being violent to their wives when their wives challenged their behaviour. It became clear that educating women about their rights and strategies for resisting violence could be disastrous if education for men about gender equality was not also included in the programming strategy. Past programmes had also focused on sending the message that domestic violence is a crime, but the survey revealed that there was virtually no enforcement action taken against men who were violent and that the vast majority of Cambodians had no access to formal courts. Thus, promoting the message that violence was criminal behaviour did not reflect reality. Importantly, the lack of law enforcement was found to be a major influence on men's attitudes. The survey data was critical in revealing that programming strategies in the Cambodian context would need to change.

In 2009, a follow-up survey revealed that perceptions by Cambodians about the acceptability of domestic violence appear to be changing – fewer survey respondents felt that certain forms of violence were acceptable. Notably, these attitude shifts were also reflected amongst local authorities and police. However, reporting of some forms of violence increased\* and half of respondents still believed that violence was an acceptable response to women arguing with husbands, not obeying, or not showing disrespect.

\*It is not known whether the increase in reporting is due to a greater number of women feeling comfortable to disclose or whether there was a true increase in experiences of abuse.

Sources: Ministry of Women's Affairs. 2005. [Violence Against Women: A Baseline Survey: Cambodia](#); Morrison. 2009. *Assessing Behaviours and Attitudes Related to Violence Against Women, Indochina Research Limited*.

### **Focus Groups**

The focus group is a specific methodology best-suited to assess social attitudes and influences that impact people's behaviour. It is particularly helpful in getting information related to a problem about which little is known, testing communication or educational messages, or gathering information about how a group might react to a given strategy.

Focus groups often reveal social norms and shared opinions and can help provide a basis to develop survey questions or in-depth interview guides.

Focus groups work best when they are designed to include small groups of people who share similar characteristics (e.g. women of the same age from the same community who have tried to use the formal courts or paralegals who work on violence against women in a particular community). Participants are invited to attend and the size is limited to about 8-10 people. Conducting multiple groups with different characteristics, but which are focused on the same topic, will help generate more useful data.

The idea behind a focus group is to generate a conversation around a particular issue and to gauge the attitudes of participants. Focus groups generally should be facilitated by someone experienced with the methodology. Focus group questions should flow from the general to the more specific and the facilitator should encourage participants to share stories, opinions, and reactions, in a relaxed environment. Focus groups require that the conversation is audio recorded for later analysis, or that there are one to two note-takers to document questions and answers. Other forms of information such as body language, silences, and general demeanor of participants in relation to questions or statements should also be documented. Focus groups are not the best method to elicit facts, individual knowledge of content, or individual opinions. Rather, focus groups generate anecdotes, information about patterns, and general insights into prevailing norms or attitudes.

### **Namibia – Focus Groups Shed Light on Rape Case Withdrawal**

In Namibia, the Legal Assistance Centre used focus groups in combination with other methods to elicit information about the top ten reasons that women withdraw rape complaints. In each of the focus groups for the [Legal Assistance Centre study](#), moderators asked participants to create a list of the ten reasons that women in their community withdrew rape cases. Although the majority of the women in the focus groups had not been victims of rape, many knew someone who had and thus could provide valuable insight into the factors women consider when filing and withdrawing a rape complaint.

Source: Legal Assistance Centre. 2008. [Withdrawn: Why Complainants withdraw rape cases in Namibia](#).

- ***Mobilising Communities to Prevent Domestic Violence: A Resource Guide for Organisations in East and Southern Africa*** (Raising Voices, 2003). Available in [English](#). Instructions on how to conduct focus groups, how to prepare facilitators and note takers, as well as how to analyze focus group data are available at pages 33-35.

For additional information on assessment tools, see the [Needs Assessment and Formative Research](#) section of the general [Monitoring and Evaluation](#) section.

**Sample Focus Group Guide** (Foundation for Human Rights Initiative, 2009)



## BASELINE SURVEY GUIDE FOR FOCUS GROUP DISCUSSIONS

Kiboga District, Uganda, 19th - 25th April, 2009

1. What do you understand by the term gender based violence (GBV)?
2. What are the causes of GBV against women and children in your home/community?
3. What are the various forms of GBV against women and children in your community?
4. Who are the main perpetrators of GBV against women and children in your community?
5. What impact has GBV against women and children had on both the victims and the community as a whole?
6. How many cases of GBV against women and children are reported in your community?
7. What recommendations would you make to ensure that victims of GBV are protected from further violence (focus on women and children)?
8. What are the laws that deal with GBV?
9. Do you think a specific GBV law should be enacted? Explain.
10. What institutions (government and non-government) that exist and handle GBV in your community? How effective are they in handling matters of GBV in your community?
11. What problems are faced when dealing with GBV against women and children in your community?
12. What do you think should be done to curb GBV against women and children?
13. How has the media assisted in reporting GBV cases in the district?

***See how this focus group data was used by reading the [Baseline Study Report from Foundation for Human Rights Initiative](#).***

### ***Key Informant Interviews***

Interviews are one of the most commonly used forms of data collection for needs assessments, research, monitoring, and evaluation. Such interviews may be part of [safety audits](#), [focus groups](#), or [human rights monitoring](#).

However, when conducting interviews about violence against women the interviewer must take special care. When interviewing survivors of violence, or others about violence against women, ethical considerations should be of primary concern.

The following important ethical and safety considerations come into play whenever interviewing survivors or others about violence against women (World Health Organization, 2003):

- **Do no harm:** Treat each woman and the situation as if the potential for harm is extreme until there is evidence to the contrary. Do not undertake any interview that will make a woman's situation worse in the short term or longer term.

- **Know your subject and assess the risks:** Learn the risks associated with violence against women and/or any particular woman's or girl's case before undertaking an interview.
- **Prepare referral information:** Be prepared to provide information in a woman's native language and the local language (if different) about appropriate legal, health, shelter, social support, and security services, and to help with referral, if requested. Don't offer advice or make promises that you cannot fulfill.
- **Adequately select and prepare interviewers, interpreters, and co-workers:** Ensure that interviewers are trained on the dynamics of violence against women and the potential for secondary trauma. Weigh the risks and benefits associated with employing interpreters, co-workers, or others, and develop adequate methods for screening and training.
- **Ensure anonymity and confidentiality:** Protect a survivor's identity and confidentiality throughout the entire interview process – from the moment she is contacted through the time that any information she provided is made public.
- **Get informed consent:** Make certain that each respondent clearly understands the content and purpose of the interview, the intended use of the information, her right not to answer questions, her right to terminate the interview at any time, and her right to put restrictions on how the information is used.
- **Listen to and respect each woman's assessment of her situation and risks to her safety:** Recognize that each woman will have different concerns, and that the way she views her concerns may be different from how others, including the interviewer, might assess them. Recognize that victims themselves can often best assess their own risk.
- **Do not re-traumatize a woman or girl:** Do not ask questions intended to provoke an emotionally charged response. Be prepared to respond to a woman's distress and highlight her strengths.
- **Be prepared for emergency intervention:** Be prepared to respond if a woman or girl says she is in imminent danger.
- **Put information collected to good use:** Use information in a way that benefits an individual woman or that advances the development of good policies and interventions for women and girls generally.

More resources related to the ethics of interviewing about human rights violations against women and girls are available in the [Programming Essentials](#) section of this website.

### Iran – Methodology for Gathering Information on Access to Justice

A UNDP appraisal of access to justice for women in Iran used multiple methods including review of existing literature, key informant interviews, questionnaires and focus groups. A total of 204 people were interviewed for the study, of which 47 were female judges, 45 were female attorneys, 54 were female offenders and 56 were female

claimants. Two non-governmental organizations (NGOs) working on women's legal issues also were interviewed. According to the research report, "interviewees selected for the study were identified within institutions. Letters were written to a focal point within the courts, which were then distributed to judges and attorneys to encourage their participation in the study. The attorneys willing to participate in the study were met in their own offices and the judges were visited in the courts. The research team approached female claimants in the courts and the Legal Medical Clinic where claimants seek physicians to assess their physical condition. Female offenders were solicited in the Women's Prison through the authorities. Female offenders who had recently been released were approached in shelters developed for newly released prisoners who lacked housing. Non-governmental organizations (NGOs) working on women's legal issues also participated and provided information on their activities."

Because the study was interviewing both women claimants and female offenders in or recently released from prison, ethical and safety concerns were a central issue in the research. The researchers took account of the fact that because of the sensitive nature of the topic, anyone who chose to participate in the research was in fact engaging in a "political act." Strict confidentiality and anonymity provisions were put in place to protect participants. Moreover, the research was made possible because the research team had previously conducted work in the Iranian court system and was trusted by key staff from the courts. The researchers provided honorariums to participants and also provided referrals to resources when necessary. The study resulted in multiple recommendations to the Iranian government, including changes to the penal code and increased support for non-governmental organizations.

Survey instruments including both qualitative and quantitative questions are available in the [appendices](#) of the report.

Source: U.N. Development Programme. 2007. [Access to Justice for Disadvantaged Groups: The Case of Women in Iran](#).

Good interviewing requires the interviewer to be non-judgmental, connect with the interviewee, communicate complicated issues clearly, be professional, be polite, be knowledgeable and sensitive to the issues, be well-prepared, and make inquiries in a non-confrontational or non-challenging manner. In general, interviewers should be prepared to carry out the interview, be knowledgeable about the issues and context, and be respectful to the interviewee. Steps in conducting useful interviews include:

- Determining the purpose of the interviewing;
- Identifying specific interviewees, or criteria for interviewee selection;
- Developing a set of questions or themes to address during interviews;
- Writing an interview protocol to ensure consistency throughout the process, especially if multiple people are conducting interviews;
- Pilot testing interview protocol and questions;
- Finalizing informed consent language and forms; and

- Creating the final protocol, including methods for recording the interview information either through notes, audio, or video recording.

### Sample Informed Consent Language for Interviews with Survivors

We are conducting research on the experiences of women who have been trafficked for *[name of organization]* in order to identify better ways to ensure their access to the courts. We would like to talk to you about *[state general topic to be discussed]* and to ask you questions about *[list key subjects that will be covered, including sensitive information that will be requested]*.

I won't ask your name. Everything you tell me will be kept strictly secret. No identifying personal details will be revealed. I will not use your name, the name of your hometown, your trafficker's name, or specific details about your family. There are no wrong or right answers. You may find some of the questions bring up difficult memories and you should feel free to take your time answering or to decline to answer, if you wish. Your responses about your experiences will be used to help other women who have had similar experiences and health needs.

We have discussed the potential risks and benefits, such as *[review risks and benefits mentioned during prior discussion of risks and benefits]* and ways we can limit these risks, such as *[review ideas for limiting risks mentioned during prior discussion of risks]*.

You don't have to participate if you don't wish to. If you agree to proceed, you may choose to stop the interview at anytime, or if you don't wish to answer a question or would like to ask me a question, please feel free to stop me. This interview will take approximately 30 minutes.

Do you agree to be interviewed?

Is this a good time and place to talk?

Source: World Health Organization. 2003. [\*Ethical and Safety Recommendations for Interviewing Trafficked Women\*](#).

### Developing interview questions

Practitioners can construct different kinds of questions as needed to gather information. For example, interview questions can:

- find out about the nature and extent of violations of women's and girls' human rights;
- learn what and how causes and risk factors contribute to or exacerbate the human rights violations;
- learn what consequences stem from human rights violations;
- target structural issues, such as laws or systems;
- elicit information on how pre-identified flaws in the law or policy play out in practice;

- seek clarification about procedures, guidelines, protocols and trainings and remind interviewers to obtain copies of any official documents or template forms during the interview;
- seek quantitative information to obtain estimates, such as asking police or judges about the number of cases of violence against women in a given period;
- learn what efforts non-governmental organizations and others are making to respond to the human rights violation; and
- ask about public perceptions, victim needs, and recommendations for change.

In general, the following guidelines may be helpful for practitioners as they develop their interview questions:

- Questions should be open-ended, non-leading and non-inflammatory. Use as few yes/no questions as possible.
- Avoid framing questions in a judgmental or aggressive tone. Practitioners should anticipate that interview questions about violence against women may generate strong emotions, or may elicit stories of abuse and violence from the interviewee in some cases.
- Craft interview questions to be concise, easy-to-understand, and as clear as possible. Avoid lingo, slang, and emotionally-loaded words. Use ordinary language and terms familiar to the respondent.
- If applicable, include a map or diagram to facilitate questioning and responses about events.
- Consider asking an expert or other appropriate person to review and critique questions beforehand to ensure that they are relevant and comprehensive.
- Lead off with more non-controversial and less sensitive questions. For example, asking the interviewee to describe their work and duties is an initial question that helps set a comfortable tone.
- Prioritize the most pressing questions in terms of question order.
- Ask for anecdotes without compromising confidentiality. The use of experiences and stories can help illustrate and lend credence to conclusions.
- Be prepared to deviate from the question set if needed during the interview to obtain clarification or more details.

Depending on the goal, practitioners may need to develop different question sets for different categories of interviewee. For example, separate question sets may be needed for judges, prosecutors, police, lawyers, community activists, survivors, perpetrators, advocates, and religious or other community leaders. If so, practitioners should assess what information is needed, what each group can provide, and develop tailored questions.

**Sample Key Informant Interview Questions** (The Advocates for Human Rights, 2011)

*Sample Questions for Prosecutors Related to Domestic Violence*

General:

1. Can you describe your work and area of responsibility? What size population does your district serve? How many prosecutors serve this district?

2. How long have you been a prosecutor? How many cases do you prosecute a year? Can you describe what kinds of cases?
3. Does your office handle cases involving violent assaults between husband/wife or intimate partners?
4. (If there is a new law on domestic violence) Are you familiar with the new law on domestic violence? What are prosecutors' responsibilities under the new law?
5. Can you estimate how many cases of domestic violence are reported in your district each year? How many cases of domestic violence are charged in your district each year? Do you have staff members who specialize in prosecuting domestic violence cases?
6. Does your office keep statistics on domestic violence cases? Do these statistics show the gender of the perpetrator and victim, their relationship, and the severity of the injury?

#### Prosecutor Procedures in Domestic Violence Cases

7. What laws relate to the criminal prosecution of domestic violence?
8. What policies or protocols does your office have regarding prosecution of domestic violence cases? May we have a copy of the policy?
9. What factors are considered in determining whether to prosecute domestic violence crimes?
10. Please describe the procedure involved in the complete prosecution of a domestic violence case.
11. How many cases of domestic violence are declined in your district each year? What are some of the reasons that you decline to prosecute domestic violence cases? What is the most common reason that you decline to prosecute domestic violence cases?
12. How many cases of domestic violence do you dismiss each year? What are some of the reasons that you dismiss cases of domestic violence? What is the most common reason that you dismiss cases of domestic violence?
13. If the case is prosecuted, what role does the victim play in the prosecution? What do you do if the victim does not want to proceed with or participate in a prosecution? Do you need the victim to testify to go forward with prosecutions?
14. If the case is not prosecuted by the state, do women ever initiate private prosecution of a domestic violence case?
15. What type of evidence do you need to prove injuries in court?
16. Is lack of documentation of the abuse in a police report ever a problem in prosecuting domestic violence crimes?
17. Is lack of documentation of the abuse in a medical report ever a problem in prosecuting domestic violence crimes?

18. Is there a way that you find out about previous acts of violence in a domestic violence case? Do previous acts of domestic violence affect your actions in a case?

*Sample Questions for Judges Related to Domestic Violence*

General:

1. Can you briefly describe your work and area of responsibility?
2. How long have you been a judge?
3. What is the process for becoming a judge? What are the educational requirements? Is there any requirement of continuing education? Have you had trainings on domestic violence? If so, who organized them?
4. [If there is a new law on domestic violence] Have you had specific training on the new law on domestic violence? Do you know if all judges have had this training?

Judicial Procedures in Domestic Violence Cases:

5. Are domestic violence cases brought before your court?
6. Can you estimate what percentage of your cases are domestic violence cases? Does your office keep statistics on domestic violence cases?
7. Are there specialized courts for the handling of civil domestic violence cases in which orders for protection are sought? If so, do the judges who handle these cases receive specialized training at the beginning of their service or at regular intervals during their service? How many judges handle these cases? What is their approximate caseload?
8. Are there specialized courts for the handling of criminal cases of domestic violence, either assault cases, violations of orders for protection, or other matters such as harassment or stalking? If so, do the judges who handle these cases receive specialized training at the beginning of their service or at regular intervals during their service? How many judges handle these cases? What is their approximate caseload?

Criminal Proceedings:

9. Do you hear criminal assault cases involving domestic violence?
10. What factors are considered in determining whether or not to convict on domestic violence crimes?
11. What punishments are available for perpetrators of domestic violence? What factors are considered in sentencing after a conviction for domestic violence? What is the most common sentence? Do you ever suspend sentences in cases of domestic violence?
12. What factors are considered in setting bail for a perpetrator accused of a domestic

violence crime?

13. Have you ever encountered a situation in which the perpetrator seemed extremely dangerous? What criteria do you use to assess for direct and immediate threat to the victim's life? What action do you take in this situation?
14. Do you utilize [risk assessments](#) in determining bail, release, or sentencing of domestic violence perpetrators?
15. Have you ever seen a situation in which a victim of domestic abuse was also arrested, charged, or convicted of domestic abuse? Can you describe that situation and what happened?
16. If the case goes to court, what role does the victim play in the prosecution?
17. How long does it generally take to for a criminal domestic violence case to be resolved?
18. Is lack of documentation of the abuse a problem in cases of domestic violence crimes? If so, how and why?
19. Are forensic doctors used in cases of domestic violence? If so, what weight do you give to having a certificate? Can a case be prosecuted without one? Are the conclusions on forensic certificates ever questioned? If so, what happens?
20. Do women prosecute cases of domestic violence unassisted by the state? Are they successful at prosecuting their cases?

For information on how to assess court facilities specifically, see the sections below on [specialized courts](#) and [court safety](#).

### *Developing an interview protocol*

A protocol provides an overall description of the interview process to guide the interviewer, along with specific instructions about how to conduct themselves during the interview. The protocol should include an introductory script that introduces the interviewers and the organization, describes the project mandate, explains how the information will be used, explains what the interviewer can and cannot do with the information, and explains issues of confidentiality. All interview protocols should allow for time at the conclusion of the interview to:

- Ask if the interviewee has other additional names to recommend for an interview or other sources.
- Ask if the interviewee has anything else to add.
- Allow the interviewee time to ask questions of the interviewer.

### *Other tips for conducting Interviews (Amnesty International and CODESRIA 2000)*

- If using mixed-gender interviewing teams, always provide an opportunity for women interviewees to speak with women interviewers alone.



- Be prepared to hear about personal experiences of violence from women who are your key informants, even if they have not been initially identified as survivors. With one in four women experiencing violence in their lifetime, it is very common to hear from women judges, advocates, activists, legislators, police officers, and other about the violence they have experienced.
- Remember that sexual violence is one of the most difficult allegations to discuss because of the social, cultural, moral, and political environment. In almost all societies, a woman or girl coming forward with allegations of rape, sexual violence, or sexual humiliation, has a great deal to “lose” and is likely to face extraordinary pressures and ostracism from the closest members of her family to the society at large.
- Adopt a policy for interviewers on a gender-sensitive language, including using words and expressions that do not obscure women’s and girls’ experiences. For instance, you could use generic terms and titles, such as: people, human beings, society, individual, men and women, and chairperson rather than such terms as: man, men, mankind, or chairman.
- Build trust with the women you are interviewing, understand the cycles of violence, and at which stage the women are, before bringing up sensitive issues.

### **Palestine – Gathering Data on “Honor” Killings**

At the intersection of formal and informal justice systems is the problem of “honor” killings, a type of femicide. A Palestinian women’s advocacy organization, [Women’s Centre for Legal Aid and Counseling](#), wanted to conduct advocacy related to “honor” killings, but found that virtually no data on the problem was available. Because the impetus behind “honor” killings is to restore a family’s “honor” cases were not brought to court, police records often were misleading, traditional leaders didn’t want to discuss the problem, offenders remained unpunished, and women and girls suffered in silence. The Women’s Centre received a grant from the [United Nations Trust Fund to End Violence Against Women](#) to conduct research on the problem. The Women’s Centre used multiple methods to gather data, not only on the event of an “honor” killing, but also on the process that ultimately leads to a death. The research team:

- interviewed women seeking services, families of survivors, health officials, religious leaders, police, judges, and government officials,
- reviewed records from police and courts,
- administered questionnaires, and
- documented their own experiences as service providers.

The final report included information on number of cases, types of cases, analysis of causes, and individual stories. The research documented the fact that “honor” killings appeared to be increasing and that women believed their situation to be increasingly oppressive. The appraisal research enabled the organization to develop trusting relationships with many stakeholders, such as police and religious leaders, and directly informed the organization’s proposals for action steps, including development of a databank on “honor” killing, and extensive training for decision-makers in the formal and

informal sectors such as judges and faith leaders. Gathering data also helped the organization identify key steps during the process leading up to an “honor” killing at which intervention is most helpful. For example, working with police (who often hear about a rape or other incident that could ultimately lead to a killing) to encourage them to refer young women to the Women’s Centre before the family is notified emerged as an important strategy.

Source: Spindel, et al. 2000. [With an End in Sight](#).

### **Pakistan – Examining the Link Between Jirgas and Violence Against Women**

A study on the [Role of Tribal Jirga in Violence Against Women](#) was conducted in the Sindh province of Pakistan in 2005. The study used a literature review, key informant interviews, focus groups, and documentation of case studies to examine the link between jirgas and “honor” killings. The questions asked of interviewees about the practices of this informal justice mechanism are reproduced below. The study resulted in recommendations to the government for changes in the law, police training, and legal literacy education for men and women.

#### **Questionnaire**

1. What is the historical background of tribal system in Sindh?
2. What is the historical background of jirga system in Sindh?
3. What are the present day mechanisms / processes of jirga system i.e., how it is being run?
4. What is the tribal code of “honour” and what is its place in the jirga system?
5. What is the tradition of “honour” killing (Karo Kari)?
6. What is the historical background of this tradition?
7. What, according to your opinion, are the basic causes behind karo kari killings?
8. What are the codes, rules and regulations of tribal jirga to deal with the cases of karo kari?
9. What is the role of government in the tribal jirgas and their verdicts with regard to women especially in the cases of karo kari?
10. What are the negative impacts (if any) of tribal jirgas on the cases of karo kari in Sindh?
11. What are the positive impacts (if any) of the tribal jirgas on the karo kari cases in Sindh?
12. Are rules, codes and decisions of tribal jirga with regard to violence against women in accordance to the formal legal provisions of Pakistan?
13. If not, how they violate the laws and the constitution of Pakistan?
14. Are the tribal jirga in accordance to the international conventions of human rights / women rights?
15. If no, what are the main points/ areas, where jirga codes, rules and verdicts violate the international human rights conventions?

16. If the verdicts of tribal jirgas violate the law of the land as well as international human rights standards and conventions what are your suggestions for preventing such violations by the tribal jirgas?

17. What are your suggestions for the prevention of the growing cases of violence against women especially the cases of karo kari in Sindh?

Source: Participatory Development Initiatives. 2005. [Role of Tribal Jirga in Violence Against Women](#).

Additional Resources for Researching Violence Against Women and Girls:

- **Researching Violence Against Women: A Practical Guide for Researchers and Activists** (PATH/WHO, 2005). Available in [English](#).
- **Monitoring the Implementation of Domestic Violence Laws: A Human Rights Methodology** (The Advocates for Human Rights, 2011). Available in [English](#) and [Russian](#).
- **International Violence Against Women Survey** (Springer, 2008). Available in [English](#). Survey questions available in the back matter.
- **Ethical and Safety Recommendations for Interviewing Trafficked Women** (World Health Organization, 2003). Available in [English](#).
- **Putting Women First: Ethical and Safety Recommendations for Research on Domestic Violence against Women** (WHO, 2001). Available in [English](#), [French](#) and [Spanish](#).
- **WHO Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies** (WHO, 2007). Available in [English](#) and [French](#).
- **A Methodology for Gender-Sensitive Research** (Rights and Democracy, 1999). Available in [English](#).
- **Ukweli: Monitoring and Documenting Human Rights Violations in Africa** (Amnesty International and CODESRIA, 2000). Available in [English](#).

### **Court Monitoring**

Court monitoring is a specific tool that can form part of an appraisal, ongoing programme monitoring and evaluation, or research. The goals of court monitoring are:

- To hold the justice system accountable for its actions by maintaining a public presence in the courts.
- To identify problematic patterns and concerns with the court system as well as to propose practical solutions.
- To improve the administration of justice.
- To increase public awareness of and public trust in the justice system.

### South Africa – Shukumisa Monitoring Campaign

A network of civil society groups in South Africa, called [Shukumisa](#), combines human rights monitoring with awareness-raising during the 16 Days of Gender Activism. In 2008 the group sent out 16 monitors to gather information about how official entities such as the police and courts were meeting their obligations to provide justice for victims of sexual violence. Monitors were trained on how to use assessment tools that examined how the government was complying with its own policies, including: The Criminal Law (Sexual Offences) Amendment Act 32 of 2007 (SOA), Regulations and forms related to the SOA (including forms for HIV testing of rape accused and information sheets for rape survivors about PEP and HIV testing), [SAPS National Instructions 3/2008 Sexual Offences](#), [The Victim's Charter](#), [Minimum Standards on Services for Victims of Crime](#), Gauteng Provincial Guidelines and Standards on the Implementation of Police, Station-Based Victim Empowerment Services (Gauteng Department of Community Safety), The [Customer Service Charter for Court Users](#), and [The National Sexual Assault Policy and National Management Guidelines for Sexual Assault Care](#) (Department of Health). Thirty four police stations, 16 courts, and two hospitals were visited during the 16 Days Campaign. To gain access to information, monitors relied on the service standard around information and awareness contained in the *Minimum Standards for Service Delivery in Victim Empowerment (Victims of Crime and Violence)* issued by the Department of Social Development. According to the terms of this standard, “service providers will inform communities on availability of and access to resources” and “provide information on referral procedures.” Because monitors were both members of the community, as well as of organizations advocating for rape victims’ rights, in theory the courts and police stations should not have been able to turn them away or refuse to answer any of their questions. The monitoring report revealed important findings, specifically that implementation of the policies on sexual offences was inconsistent, a lack of knowledge around procedures relating to sexual offences was evident, and understanding of the needs of marginalized victims was limited, suggesting that these particular victims may be poorly served.

- ***Shukumisa Monitoring Training Guide and Protocol*** (Tshwaranang and RAPCAN 2008). Available in [English](#).

Source: Tshwaranang and RAPCAN. 2008. [A report on the monitoring activities conducted by the Shukumisa Campaign during the 16 Days of No Violence Against Women](#).

### Uganda – Assessment of Local Council Courts

In 1998, the [Danish International Development Agency](#) (DANIDA) conducted an assessment of the Local Council Courts of Uganda. The goal of the assessment was to determine whether the courts were effectively delivering basic legal services and how they could be improved in terms of efficiency and operational effectiveness. Accordingly, the assessment focused on some key tasks:

- To review the literature and basic data on the Local Council court system;
- To assess the strengths and weaknesses in the process and functioning of the Local Council court system in particular in relation to its composition (election and gender), procedures, jurisdiction (laws applicable, remedies granted) and accessibility (geographically, economically and administratively);
- To examine the relationship between the Local Council court system and the formal as well as informal settlement practices in communities;
- To assess user perception of the decisions made by Local Council courts and to what extent the decisions may be influenced by economic, cultural-environmental or religious factors and gender biased attitudes;
- To identify caseload and case flow within the different levels of the Local Council court system and to ascertain the incidence and result of cases appealed to higher Local Council court levels and Magistrates' Court level;
- To consider the possibility of introducing, as an alternative to appeals within the Local Council court system, the option for parties who are not satisfied with the decision of Local Council courts to file a complaint as a case of first instance in a formal court;

The consultant carrying out the assessment collected data through document review, 100 questionnaires, five key informant interviews, 30 in-depth interviews, and three focus group discussions. These were carried out in a number of villages in five selected districts – one district in each of Uganda's four regions plus Kampala. Although this assessment was not specifically tailored to evaluate the court's handling of violence against women, these types of questions can provide important background on how courts function generally, who is using the courts, and where there may be entry points for reform.

## **Assessment Interview Guide for the Hybrid Justice System in Uganda**

### ***A) Interview guide for Local Council Court Officials***

#### **1. Composition of courts**

- Qualifications and background of some of the officials. (These may relate to academic and/or experiential qualifications)
- Record the gender representation by post held.
- What do they perceive as their major roles and functions in their judicial capacity?
- Any problems in combining administrative and judicial functions? (Ensure this is clearly explained in vernacular)

#### **2. Court records**

- How many cases on average are reported per day/week/month?
- Whether or not court records are kept and if not, why?
- Types of cases commonly reported?
- How the records are kept and problems associated there (Request of a sample of court records if available) ?
- Where records are not kept, what happens in the event of an appeal?

**3. Mode of operation/court proceedings**

- How many cases are on average handled per day/week/month?
- What factors affect case flow?
- Whether they have knowledge of the limits of their jurisdiction (what are they?)
- What factors are taken into consideration before making a decision?
- Are they capable of mediating cases within and outside their jurisdiction (how)?
- Can they cite instances where they have given legal advice to parties?
- Whether they seek technical advice from other institutions or bodies and if so, which ones and for what type of cases/situations?
- What procedures do they use in summoning parties and witnesses?
- How do they go through court proceedings?
- Are their cases referred to other authorities (which are those cases and to which authorities are they referred?)
- How are the fees and fines determined and collected? Any additional/informal fees?

**4. Efficiency of Local Council court officials/good governance**

Whether they have benefited from any form of support in terms of training or other forms of strengthening their efficiency (some examples)/How effective/beneficial?

Do they have any reference materials or similar resources used in their judicial functions? (some examples)

Have they received any practice guidelines/directions regarding costs, fees, and procedures?

How do they enforce judgments and what are the consequences of non-observance?

Can they identify aspects or areas where support is needed to make them more efficient?

**5. Other Issues**

Who are the dominant users of the courts?

...

What problems do they as court officials face?

Do they have infrastructure, e.g. court room, office premises (rented, free, donated, borrowed, makeshift), stationary and other facilities?

What is their opinion on the introduction as an alternative to appeals within the Local Council Court system the option for a party unsatisfied with the decision in the Local Council Court to file their complaint as a case of first instance in the formal court?

Comments on alternative resolution mechanisms within the community?

\* Any other comments? Or reactions from the Local Council officials?

**B) Interview guide for Local Council court users****Personal/ household data**

1. Respondent's Identification Record the sex/Name/Age/Village/Sub-county /District?
2. Marital Status
3. Do you have children? Number of girls? and boys?
4. What contribution do you give to the running of your home?
5. How do you do this?
6. What educational level did you attain?

**Composition of courts/mode of operation/user's perception**

7. Are you comfortable with the combination of executive and judicial functions of the Local Council?
8. If so, why?
9. If not, why not?
10. How easy is it for you to access Local Council courts?
11. Do you have confidence in Local Council courts?
12. Why?
13. Do you perceive Local Council courts as impartial?
14. If not, explain why?
15. What are your comments on the following aspects of Local Council courts:
16. Fees and any other costs involved?
17. Expediency of their operations?
18. Appreciation of the technicalities and procedures involved?
19. What do you perceive/consider as factors influencing the decisions of Local Council?
20. What other case settlement forums exist in the community?
21. In the event of a case indicate to which case settlement forums you would appeal in order of priority (find out whether priority is determined by nature of the case)?
22. Are decisions from Local Council courts enforceable/enforced?
23. What are the consequences of non-observance?
24. Give your comparison between Local Council courts and the formal court system.
25. Give your opinion on the possibility of introducing as an alternative to appeals within the Local Council court system, the option for a party unsatisfied with the decision in the Local Council court to file their complaint as a case of first instance in the formal court.

**Efficiency of Local Council court officials/good governance**

26. What would you consider to be indicators that Local Council courts are efficient and effective?
27. Can you identify areas where the Local Council courts need support?
28. Any suggestions for change in the Local Council courts?

**In-depth issues**

29. Do you have any experience in using Local Council courts?
  30. If so, can you relate what the experience(s) was/were like, whether good or bad?
  31. If not, can you relate an experience of somebody close to you that you recall?
- \* Any other comments?

**C) Interview Guide for Key Informants**

1. Name/Age/Sex (record)/Duration in office/District/Post-held?
2. Is there collaboration between your office and Local Council courts?
3. If so, what form does the collaboration take?
4. If not, why?
5. Do you perceive Local Council court as impartial?
6. If not why?

7. What do you perceive as factors influencing the decisions of Local Council courts?
8. Have you any knowledge/received reports of problems faced by various people in accessing or using Local Council courts?
9. If so what are the common problems and complaints?
10. Have you been approached to assist in the enforcement of decisions of Local Council courts? Cite examples.
11. What do you consider as:
12. the strengths of Local Council courts?
13. weaknesses of Local Council courts?
14. Give your comparison between Local Council courts and the formal court system.
15. What other alternative case resolution mechanisms exist the community?
16. Identify them in order of priority given to them.
17. Indicators of efficiency and effectiveness of Local Council courts?
18. Any suggestions for change in Local Council courts system?
19. Identify areas where you think Local Councils need support

Source: Penal Reform International. 2000. [Access to Justice in sub-Saharan Africa: The role of traditional and informal justice systems.](#)

Further questions to determine if gender bias exists could include:

- Do the Local Council courts make provision for the safety of domestic violence victims or sexual assault victims?
- Do the findings of the Local Council courts support the human rights of women and girls?
- Do the Local Council courts offer reparations or settlements directly to women and girl victims or are the reparations or settlements offered to their families?
- Are women and girls given an opportunity to speak in Local Council courts, as victims and witnesses?
- Do women and girl victims of violence have the opportunity to have an advocate who understands gender-based violence accompany them to Local Council court hearings?
- Have there been any unintended consequences when Local Council courts hear cases of violence against women and girls?]

See additional information on how to engage in [court monitoring](#).

### ***Human Rights Monitoring***

Human rights monitoring is a specific tool that can be used in an appraisal of the impact of a situation on the human rights of individuals. Human rights monitoring seeks to gather information about the human rights situation in a country or region over time through readily available methods, with the goal of engaging in advocacy to address human rights violations. It also involves a process of documenting human rights violations and practices so that the information can be categorized, verified, and used



effectively. Human rights monitoring is sometimes called fact-finding. Fact-finding consists of investigating a specific incident or allegation of human rights violations, collecting or finding a set of facts that proves or disproves that the incident occurred and how it occurred, and verifying allegations or rumors.

Human rights monitoring related to violence against women and girls has been a feature of justice reform in the formal sector for several decades. Groups have designed programmes to monitor criminal and civil cases, as well as other practices, that relate to violence against women. Resulting reports about how police and court practices match with international human rights standards have been effectively used for advocacy purposes in a number of settings.

There are a number of ways to monitor human rights including by using [government mechanisms](#), [international mechanisms](#) and through [non-governmental organizations](#) and [human rights organizations](#).

For an example of a human rights report, see: *Implementation of the Bulgarian Law on Domestic Violence (The Advocates for Human Rights and the Bulgarian Gender Research Foundation, 2008)*. Available in [English](#).

### ***What is the outcome of an appraisal?***

The outcome of an appraisal might be a community map, a detailed narrative report on themes from interviews, charts with survey results, or ideally a combination of all of these. The outcome of an appraisal should reflect a human rights-based analysis of the information.

A situational appraisal should keep in mind the following objectives and associated sample questions (UNDP, 2005). The following questions and tips can help guide the analysis of appraisal data.

- Situate the problem in a human rights context:
  - Which human rights are at stake? The international framework of treaties and standards protecting women's rights can be found on the [UN Women](#) website.
  - What types of remedies do women and girls need?
  - How does the current situation compare to the international human rights framework?
  - Is a legal framework in place and is it in line with international human rights norms?
  - How do customary, indigenous, or other informal norms and practices promote or hinder women's rights in the context of this problem?

- Think in terms of issues, not institutions – the justice sector is comprised of multiple mechanisms through which women attempt to claim their rights from those who have a duty to uphold them.
- Think in terms of rights and responsibilities – where a woman has a right, someone else has a responsibility or a duty, and both the woman and the person responsible for granting a remedy must have the appropriate knowledge and capacities.
- Use data, but avoid analysis deadlock – gathering available or newly collected qualitative and quantitative data is a critical piece of appraisal, but it is easy to become overwhelmed with information. Keep the analysis simple and focused on the initial issue that led you to make an appraisal. Don't try to solve all the problems in the justice sector at once.

The outcome of an appraisal should serve as a basis for guiding programme development and should help move what started as strong desire for reform toward a list of detailed, achievable goals and objectives.

### **Vietnam – Ministry Conducts Legal Needs Assessment**

As part of the transition from an underdeveloped, soviet-style legal system to a modern rule of law based legal order, the Vietnamese Ministry of Justice carried out a comprehensive [legal needs assessment](#). Due to a serious shortage of trained legal professionals in the country, the Ministry of Justice approached the [United Nations Development Programme](#) with a request for technical assistance and donor co-ordination.

National ownership of the assessment produced outcomes more likely to be ultimately employed by the government, and demonstrated that the recommendations were not donor-driven. Additionally, by taking the time to clearly plan out the scope of the assessment and design procedures for the necessary inter-ministerial collaboration, the assessment both stayed focused on its purpose, and relevant to Vietnamese policy making bodies.

In addition to creating a comprehensive needs assessment for the Vietnamese legal system, the process helped increase the legal capacity and awareness of Vietnamese policy/lawmakers. Due to this indirect influence on lawmakers, many of the assessment suggestions have been incorporated into recently promulgated Vietnamese laws—an unintended benefit. Having a comprehensive picture of the legal resources available generally can inform programming specifically related to violence against women by highlighting priority needs.

Source: World Bank – Vietnam. 2003. [Delivering on its promise](#).

## Step 2: Define and Prioritize Goals

Having completed an appraisal of the problem, the analysis from **Step 1** should lead to a clearer statement of the problem as well as identification of one, or probably several, desired goals/outcomes as a result of the reform initiative.

### ***Goals should reflect the desired change in women's and girls' lives***

A goal statement should reflect the change in women's and girls' lives that will result from the programme once implemented. Programmes focused on engaging the justice sector relative to violence against women often reflect these common goals:

- Make the justice sector more effective in protecting victim safety
- End impunity for violence against women
- Decrease the gap between norms in the national constitution and laws and the body of international human rights norms
- Create alternatives to justice practices that harm women or make them more vulnerable
- Exclude customary or religious justifications for gender-based violence.
- Modify existing practices in the informal system that are in conflict with formal laws on violence against women and girls
- Decrease discrimination against women in the justice sector
- Increase women's participation as decision-makers and leaders in the justice sector
- Increase survivors' comfort in seeking remedies from the justice sector
- Increase the knowledge about violence against women and women's human rights among key actors in the justice sector
- Increase women's knowledge about their right to seek a remedy in the justice sector
- Increase accountability and transparency in the justice sector
- Mandate the justice sector to improve risk-management processes
- Make the justice sector more responsive to community needs
- Increase monitoring and oversight of the justice sector
- Ensure that women and girls are not re-victimized by the justice sector
- Ensure that a case which has been processed under a religious or customary judicial system may still be brought under the state's formal justice system
- Ensure that survivors are not coerced into using a specific type of justice mechanism
- Reduce corruption

Writing goals in a specific way so as to reflect a human-rights-based approach can help ensure a programme's success is measurable and meaningful.

Taking the examples above, instead of stating that the programme will “**reduce corruption,**” a rights-based approach would describe the goal as: “**Women victims of**

**violence are able to access the justice mechanism of their choice and receive a timely, effective remedy without having to pay bribes or provide other inducements to decision-makers and gatekeepers.”**

See an example of specific goals and objectives for a [judicial training](#) programme.

### ***Prioritizing goals maximizes programme effectiveness***

If the appraisal leads to multiple desired goals, planners will need to prioritize. The following considerations and guidelines may help in that process (UNDP, 2005, pp.27-28):

- Which goals are most important to women and girls who are directly impacted?
- Which goals could include an immediate benefit for women’s and girls’ safety and access to justice?
- Identify would-be “spoilers” and potential champions - what kind of political opportunities are available for action on each outcome?
- Adopt multiple timeframes and categorize goals into shorter or longer term.
- Which goals can be realistically achieved through advocacy by your organization or coalition of organizations?

It can be difficult to focus in on a manageable project, especially when an appraisal of the sector reveals multiple issues that all affect women’s and girls’ safety and human rights. Including stakeholders and community members in the process of prioritizing desired outcomes is an important step and can help generate buy-in up front for programming initiatives.

One method of participatory prioritization is pair-wise ranking. This method allows communities and stakeholders to systematically examine an array of issues and come to conclusions about which issues are most critical.

#### ***Pair-wise Ranking Instructions*** (RHRC Consortium, 2004)

By beginning with listing problems/issues and then comparing them systematically in pairs, a matrix is developed that allows the community members to compare and contrast the issues they have identified. Each item is successively compared against the other items and, for each pair, the most significant problem is chosen. Once the matrix is complete, it is possible to score and then rank issues/problems from the most important to the least. The procedure should be as follows:

Once rapport has been established with a group of community members, introduce the pair-wise ranking exercise. First, ask people to list their responses to a specific well-phrased question such as:

What are the ways that women and girls seek justice for violence in this community?  
Pair-wise ranking can also be used to rank other issues, such as what kinds of

interventions the community feels are most important to reduce violence against women and girls. In this case, sample lead questions might be:

Who do women go to for help if they are victims of violence?

What do you think are the most effective ways that those who harm women and girls can be held responsible? If people identify multiple issues that can be grouped under the same heading encourage them to identify a general category that captures these multiple forms.

Draw a matrix (see below) and as people identify barriers to women seeking justice for violence, write those types on the horizontal column (the column going across) at the top of the matrix. After the participants are satisfied that they have listed as many issues as they can think of, stop and write the same list on the vertical column (the one going down the left side of the matrix), starting the vertical list with the *last* category listed in the horizontal column. Put an X in the boxes where the pairs are repeated. For example, looking at the matrix below, A, B, C, etc., each represent a type of barrier identified by community members. The X's represent boxes where no ranking is needed, since other boxes already make the same comparisons of A with C, A with B, and B with C. Remember that you do not need to prioritize at this point, you only need to list different issues affecting women and girls in the target community.

	A. traditional chiefs are not familiar with human rights standards related to GBV	B. there is no private or confidential way for women to report GBV to local authorities	C. there are no women members of local arbitration councils
C. there are no women members of local arbitration councils			X
B. there is no private or confidential way for women to report GBV to local authorities		X	X
A. traditional chiefs are not familiar with human rights standards related to GBV	X	X	X

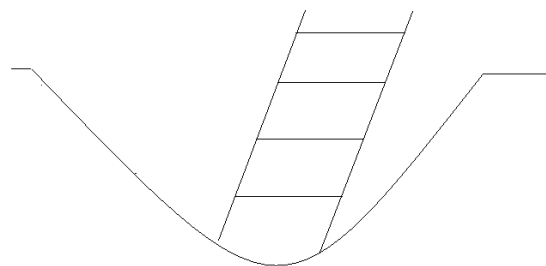
1. Starting in the upper left-hand corner, ask participants: 'Compare the problem or issue identified in the horizontal row with the problem or issue identified in the vertical column. Which is the more important/effective of the two?' Let the group discuss and record the letter associated with the issue that is the most important of the two in the cell.

2. Continue comparing problems listed in the rows with the problems listed in the first column. Be sure to give the group plenty of time to discuss. It is through this discussion that individuals' ranking criteria will emerge and people will begin to understand why another person holds an opinion different from his or her own. This understanding is the most critical part of conducting a pair-wise ranking.
3. Move on to "pair-wise" comparisons with the problem in the second column of the problems listed in the rows.
4. Continue the process of pair-wise ranking until all cells in the matrix have been filled.
5. Next, tally the results by counting the total number of each type of violence and recording the numerical score (count) in the appropriate column. Then prioritize the problems. First priority goes to the problem which received the highest score, second priority to the next, and so on.
6. Discuss the resulting prioritization with participants. Most importantly, given the discussion and process, ask if participants feel that the ranking reflects reality (e.g. If a community group is going to move ahead with a rights-based education programme, will the people support it? Will they participate? Does it speak to their needs?).
7. Remember to record the visual output, identifying place, dates, names of participants, if possible, and provide a narrative description of the process and explanation of the data.

Another method for prioritizing goals and associated activities is visualizing the situation in terms of pits and ladders.

***Pits and Ladders Instructions*** (CARE, 2004)

Using a simple ladder image, organizations can describe the problem they are facing as a pit that they need to climb out of through programme activities. The goal is the ground at the top of the pit, the place where the community will arrive once successful programming is implemented. The rungs on the ladder represent the steps that the programme will undertake to make the desired change.



### **Step 3. Plan for Participation and Partnerships**

Access to justice programmes should be participatory and should draw on a network approach when feasible. Ensuring participation and developing effective networks can be challenging, but these strategies can significantly enhance the effectiveness and sustainability of programs.

The meaningful participation of those affected by a problem is considered a fundamental right in itself. Participation helps increase accountability, brings the knowledge of those experiencing the problem into the process, and can help to address power imbalances.

A network approach to access to justice brings partners together around a common goal. Using networks to advocate for change allows groups to maximize resources, avoid duplication of efforts, and draw on the social capital (relationships, reciprocity, reputations) of multiple organizations.

### ***Creating meaningful participation in programmes***

Meaningful participation is generally understood to mean that the participants have a degree of real decision-making and control in the process. A participation plan is an important part of the programme planning and design process. Organizations should consider the following when developing a participation plan (Asia-Pacific Rights and Justice Initiative, 2003; UNDP, 2005):

- Identify level and means of participation of women, girls, and others who are most affected by the problem.
  - What kinds of participation are feasible given political, financial, and time constraints?
  - Do different stakeholders need to be involved in different ways?
  - What channels for participation already exist?
- Identify obstacles and incentives to participation.
  - What is inhibiting women's, girls', and other stakeholders' participation in the justice reform programme effort?
  - How can the capacity of women, girls, and other stakeholders be enhanced so that they can be active participants in planning, implementation, monitoring and evaluation? Do women need training in the short-term? Is illiteracy or language an issue? Is transport or childcare a concern?
  - How can non-discrimination be assured through the programme planning and design process?
  - Who are the groups and individuals who must be involved early on to ensure success?
  - How can outreach and consultation take place to maximize input from all stakeholders?
  - Who may be difficult to involve?
- Develop strategies to strengthen capacities for participation.
  - Trust-building – may involve building networks with credible organizations and leaders, assuring confidentiality, transparency about motives and funding, sharing results with all stakeholders
  - Techniques – public meetings, traditional community gatherings, conferences, focus groups, workshops, roundtables, advisory committees, task forces, open houses, site visits, demonstrations

- Incorporate participation into all stages of the programming cycle including appraisal, planning, implementation, and monitoring and evaluation.

Detailed information about participatory data collection methods is available in Programming Essentials, by scrolling down through the [Baseline Assessments](#) section.

Additional resources on participation:

- ***Researching Violence Against Women: A Practical Guide for Researchers and Activists*** (PATH/WHO, 2005). Information on using participatory qualitative data collection methods appears at pages 138-152. Available in [English](#).
- ***Gender-based Violence Legal Aid: A Participatory Toolkit*** (American Refugee Committee, 2005). Available in [English](#).

### ***Partnerships and networks are powerful tools***

Developing networks can be a very powerful tool, but the partnership or networking process must be carefully managed and monitored to ensure success (Varga, 2006; U.S. Agency for International Development, 2007).

Networks have several advantages:

- Increasing credibility, urgency, and legitimacy through multiple organizations pressing a single issue or transmitting a consistent message
- Appealing to a broader constituency than an organization working alone
- Providing support to advocates through less isolation
- Avoiding duplication
- Learning from others' past mistakes
- Harnessing complementary strengths on complex issues

Key considerations in developing networks include:

- Assigning a coordinating role
- Developing a leadership structure
- Clearly defining purpose, roles, and expectations for network members
- Memorializing expectations in written documents

Breakdown in communication or lack of clear expectations can undermine the effectiveness of networks and coalitions. Many find it useful to create documents that specify expectations for coalition members. The following are examples of documents coalitions have used to clarify expectations, communication, and roles:

- El Paso County, USA, [Greenbook Collaboration Commitment](#)
- United Kingdom, Women's National Commission, [Partnership forms for Individuals and Organizations](#)

More detailed information on developing a network or coalition is available in the [Legislation: Advocacy](#) section.



## Step 4: Use Tools to Select a Strategy or Strategies

Having defined and prioritized goals, planners will want to match a strategic approach to the outcome. Common strategies for engagement with the justice sector can be found in the [Overview of Strategies](#).

Tools to help with selection of an appropriate, effective and sustainable strategy include: (please note that these tools can also be used in other stages)

- [Stakeholder Analysis](#)
- [SWOT Analysis](#)
- [Focus Groups](#)

### ***Stakeholder analysis***

Stakeholder analysis is a methodology used to facilitate institutional and policy reform processes by incorporating the needs of those who have a 'stake' or an interest in the reforms under consideration. With information on stakeholders, their interests, and their capacity to promote or oppose reform, advocates can choose how to best accommodate them, thus assuring policies adopted are politically realistic and sustainable.

A stakeholder is someone with an interest, stated or unstated, in a reform initiative. Stakeholders can be individuals, organizations, or unorganized groups. In most cases, stakeholders fall into one or more of the following categories: justice system actors (e.g. judges, chiefs, paralegals), international actors (e.g. donors), national or political actors (e.g. legislators, governors), public agencies (e.g. health systems), interest groups (e.g. unions, law societies), commercial/private for-profit, nonprofit organizations, women's groups, legal aid groups, civil society members, and survivors and others who use the justice system.

A stakeholder analysis uses multiple methods of information gathering (see above for information on interviews, community meetings, observation, etc.) to document:

- the stakeholders' opinion on the reform;
- the level of influence (power) they hold (quantity and type of resources and power the stakeholder can use to promote its position on the reform);
- the level of interest they have in the specific reform (priority and importance the stakeholder attaches to the reform area); and
- the group/coalition to which they belong or can be associated with.

Timing is an important factor in the implementation of stakeholder analysis to assure the usefulness of the results for programme planning and design. When conducted early on, stakeholder analysis can help gauge the likelihood of acceptance and sustainability of proposed programmes. By starting stakeholder analysis prior to the introduction of the reform and continuing to modify the programme proposal during the design process, potential obstacles to implementation can be avoided. Information from a stakeholder analysis can be represented in a matrix such as the one shown below.

Sample Stakeholder Matrix (New Zealand Aid Programme, 2011)

<i>Stakeholder</i>	<i>How Affected by the problem</i>	<i>Capacity to address problem</i>	<i>Motivation to solve the problem (high – low)</i>
Poor, rural women	Directly affected	Low	High
Judges	Occasionally affected	Medium	Medium

**Sample Outcome of Stakeholder Analysis** (Raising Voices, 2005)

Raising Voices, an organization in Uganda, and its network partners created a list of Do's and Don'ts as part of their stakeholder analysis related to addressing gender based violence in the context of HIV/AIDS. The suggestions and things to consider are important for many types of programming on violence against women. While the specific "do's" and "don'ts" will be different in each context, this type of analysis can be one helpful outcome of any stakeholder analysis.

**Women**

**Do's**

- Always put women's safety first!
- Always maintain confidentiality
- Never force a woman to tell her story
- Educate women on their human rights
- Use existing channels to reach and help them
- Remember that they are the expert on their own lives – encourage and support them to make decisions themselves
- Help women see the advantages of non-violence to their relationships and families
- Hold short meetings at convenient time for women
- Meet them when they are with their groups

**Don'ts**

- Emphasize culture or politics
- Call them in the evenings for activities
- Pretend or assume you can solve their problems
- Assume you know what is right for any woman
- Pressure women to speak out
- Tell women what to do if they are experiencing violence, help them think through options and decide for themselves.

**Police**

<p><b>Do's</b></p> <ul style="list-style-type: none"> <li>• Meet with officials—recognize the hierarchy and work within it</li> <li>• Meet the Family Protection Units, Community Liaison Officer and Police Post Officers in area of operation and brief them about program.</li> <li>• Learn and understand their roles and responsibilities as officers</li> <li>• Appreciate their efforts</li> <li>• Refer victims of violence</li> <li>• Jointly implement activities</li> <li>• Train them if possible</li> <li>• Involve them in follow up, support, supervision</li> <li>• Collaborate with them</li> <li>• Recognize the difficult situation they are in (i.e., lack of resources, low pay, etc)</li> <li>• Work with them in a spirit of respect and collaboration</li> <li>• Focus on helping them do their job better</li> </ul>	<p><b>Don'ts</b></p> <ul style="list-style-type: none"> <li>• Condemn them for neglect or failure to do their work</li> <li>• Regard them as competitors but instead as partners in the work</li> <li>• Assume they understand GBV</li> <li>• Undermine the hierarchy within the police station</li> <li>• Involve only one or two officers – they won't be able to make significant change in their offices without support of others and the leadership</li> </ul>
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**Local Councils**

<p><b>Do's</b></p> <ul style="list-style-type: none"> <li>• Always have an entry meeting with them</li> <li>• Give brief about the project</li> <li>• Share goals and objectives</li> <li>• Seek their support</li> <li>• Involve them at every level</li> <li>• Recognize them in every meeting</li> <li>• Invite them to open meetings</li> <li>• Involve them in mobilization</li> <li>• Involve them in identifying community resource persons</li> <li>• Give them non-monetary motivation</li> <li>• Give a copy of workplan at sub county level</li> <li>• Conduct review meetings with them</li> <li>• Give progress reports at district and sub county level</li> <li>• Involve local councils in monitoring the project activities</li> <li>• Strengthen capacity of local councils</li> </ul>	<p><b>Don'ts</b></p> <ul style="list-style-type: none"> <li>• Pass them by when starting new projects</li> <li>• Ignore them when going to their area</li> <li>• Allow them to hijack the programme for political gain</li> <li>• Pay them money – explain how the programme will benefit the whole community</li> <li>• Make promises that you can't keep</li> </ul>
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<ul style="list-style-type: none"> <li>• Show them how VAW prevention can ease their work load</li> </ul>	
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**Men**

<p><b>Do's</b></p> <ul style="list-style-type: none"> <li>• Recognize their participation</li> <li>• Encourage them to share their feelings</li> <li>• Encourage dialogue</li> <li>• Do a lot of listening</li> <li>• Use a benefits-based approach (i.e., show men how non-violent relationships will help them become happier in their families and relationships)</li> <li>• Show men the connection between how we raise boys and girls and status and gender</li> <li>• Hold them accountable for violence – it is never acceptable</li> </ul>	<p><b>Don'ts</b></p> <ul style="list-style-type: none"> <li>• Blame or judge</li> <li>• Avoid over emphasize women's rights approach</li> <li>• Criticize men's weaknesses</li> <li>• Avoid talking about violence directly</li> <li>• Address issues as if it is a court</li> <li>• Shout</li> <li>• Collude with their negative perceptions about women</li> </ul>
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**Health Care Providers**

<p><b>Do's</b></p> <ul style="list-style-type: none"> <li>• Introduce the programme to senior clinic officials</li> <li>• Get top staff support</li> <li>• Involve them in decision making about the programme and how it can help them improve services</li> <li>• Understand their constraints and help them work within it</li> <li>• Ask them to facilitate activities</li> <li>• Provide them training</li> <li>• Get them involved in mobilization</li> <li>• Recognize their constraints – time, staff, resources, etc</li> <li>• Update them on progress</li> <li>• Show them how work on VAW can actually help reduce their work load in the long run</li> <li>• Provide them with current referral list</li> <li>• Get them involved in monitoring and evaluation</li> </ul>	<p><b>Don't</b></p> <ul style="list-style-type: none"> <li>• Hold long meetings</li> <li>• Schedule meetings in the morning hours</li> <li>• Hold meetings inviting all the health workers from the same clinic on the same day</li> <li>• Hold meetings during public health days</li> <li>• Have too many meetings</li> </ul>
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**Religious Leaders**

<p><b>Do's</b></p> <ul style="list-style-type: none"> <li>• Clearly explain the programme</li> <li>• Involve them</li> <li>• Recognize them publicly</li> <li>• Respect their beliefs</li> <li>• Give feedback</li> </ul> <p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• They have mandate to work with the community</li> <li>• Fighting GBV is in line with their mission</li> <li>• They have appropriate facilities for seminars, workshops and meetings,</li> <li>• They are good at mobilizing local resources</li> <li>• They have administrative structures up to the grassroots</li> <li>• They command respect and a big following</li> <li>• They meet the community regularly</li> </ul>	<p><b>Don'ts</b></p> <ul style="list-style-type: none"> <li>• Abuse their beliefs</li> <li>• Interfere with their programmes (schedule events same time as theirs)</li> <li>• Reject their suggestions but try to introduce new/controversial issues carefully</li> <li>• Teach what is in conflict with their teachings</li> </ul> <p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Sometimes they are subjective</li> <li>• They tend to concentrate on their own flock</li> <li>• They are too busy to work with</li> </ul>
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### SWOT Analysis

SWOT analysis stands for Strengths, Weaknesses, Opportunities and Threats. It is a tool borrowed from the business world now regularly used in community and organizational development work. It is designed to help groups identify internal strengths and weaknesses, as well as external opportunities or threats that might affect a programme that is under consideration. To conduct a SWOT analysis, groups use a matrix like the one below and brainstorm items to go into each box.

#### Sample SWOT Analysis Table

	Helpful to achieving the goal	Harmful to achieving the goal
Internal origin (attributes of the organization)	<i>Strengths</i>	<i>Weaknesses</i>
External origin (attributes of the environment)	<i>Opportunities</i>	<i>Threats</i>

### **Focus Groups**

Please see the description of [focus groups](#) in the Conduct an Appraisal section.

## **Step 5. Incorporate Monitoring and Evaluation**

Developing a [monitoring and evaluation plan](#) for the programme should be an integral part of planning. For more information, see the [monitoring and evaluation](#) section of this module.

Monitoring and evaluation begins with a [baseline study](#). The purpose of a baseline study is to provide an information base against which to monitor and assess an activity's progress and effectiveness during implementation and after the activity is completed. The baseline study gathers the information to be used in subsequent assessments of how effectively the activity is being implemented and the eventual results of the activity. Information is gathered through the use of indicators, which focus in on the specific type of information needed for a baseline and to plan a program. More information and sample indicators can be found in [Monitoring and Evaluation: Indicators](#).

Detailed information on [baseline studies](#) is available in the Programming Essentials section. Baseline studies should not be confused with needs assessment studies or [situational appraisals](#) which collect information in order to design the initiative. General information on needs assessments/situational appraisals is also available in the [Programming Essentials](#) section.

The monitoring of a justice sector reform project, which also gathers and analyzes data should be consistent with, but not repeat, the baseline study. Mid-term reviews, project completion reports and other evaluations will judge progress largely by comparing new data with the information from the baseline study.

### **DR Congo – Monitoring Key to Success**

Monitoring a programme effectively can mean a simple change in the timing of implementation. [Women for Women International](#) ran a Men's Leadership Program in the eastern Democratic Republic of Congo. The programme held train-the-trainer sessions in multiple communities, which all rolled out simultaneously. An evaluation of the programme revealed that if the trainings had been sequenced, so as to allow for monitoring and reflection upon the lessons learned in each community before starting the programme in a new community, additional insights could have been gained and programme improvements generated.

Source: Women for Women International. 2007. [Ending Violence Against Women in Eastern Congo](#).

## Step 6. Develop a Work Plan and Budget

### *Work planning sets the stage for programme implementation*

A work plan is a document that specifies and represents a justice reform programme's main activities/tasks, their sequence, timing and who will have responsibility for them. The following steps are usually involved when developing a work plan (New Zealand Aid Programme, 2011):

- List main activities that will be necessary to meet the programme's goals and to achieve the desired outcome.
- Choose realistic, appropriate time periods for specifying when activities will take place (weeks, months, quarters).
- Break each activity down into manageable tasks. A task is something that can be managed by an individual and is easy to visualize in terms of resources required and the time it will take to complete.
- Specify the sequence and relationships between tasks. (What needs to happen before this task can be started? Can two tasks be carried out at the same time?)
- Consider human resources, including work schedules, seasonal schedules, and other ongoing projects.
- Estimate the start time and duration of each task. This may be represented as a line or bar on a chart. Be careful to:
  - Include all essential activities and tasks;
  - Bear in mind workloads on individuals (peaks and troughs of work) and identify where additional assistance may be needed; and
  - Be realistic about how long a task will take.
- Identify key events or achievements (milestones) by which monitor progress. These are often dates by which a task will be completed (e.g. new curriculum drafted by September 20XX).
- Agree on and assign responsibilities for tasks with staff, volunteers, and other members of the programme team.

### Sample Work Plan

In planning for a justice sector reform initiative in former Soviet Union countries, [The Advocates for Human Rights](#) planned that one programme component would be a three-day training on monitoring implementation of laws. The training was designed to provide information to advocates and legal system personnel from 10 countries on strategies and techniques for monitoring the implementation of new domestic violence laws by police, prosecutors, judges and other agencies. The following work plan broke up the programme into manageable activities and created a timeline of work.

Activity Name	Months from initial funding											
	1	2	3	4	5	6	7	8	9	10	11	12
Define training goals and identify trainers	X	X										

Confirm training facilities and accommodations	X												
Publicize training to advocates in target countries			X	X									
Receive participant applications for training, select participants				X	X	X							
Develop training curriculum and select and create training materials		X	X	X	X	X	X						
Make arrangements for travel and accommodations				X	X	X	X	X					
Conduct training								X					

### ***Budgeting makes programme implementation possible***

A budget estimates the costs as accurately as possible for each activity set out in the work plan. A budget should distinguish between one-time costs, such as equipment purchase, and ongoing costs, such as salaries and operating expenses (New Zealand Aid Programme, 2011).

The steps involved in budgeting include:

- Develop a work plan.
- List the activities from the work plan in the left hand column.
- For each activity make a list of all the inputs required to complete the tasks involved.
- Group the inputs so that the cost information can be summarized into cost categories such as salaries, equipment, materials, transport, incentives, space rental, hospitality, and overhead. For each category decide on the most appropriate units to use for the different inputs, e.g. person, months, number.
- Look at the work plan and see when the tasks are going to be carried out and then specify the quantity (in units) required for each budgeting period.
- When there are different funding sources for certain activities, allocate costs to the respective funding source and show this in the budget.
- Use the costs for different time periods and then add these to come up with a total activity cost.
- The final column can be used to list the recurrent costs. (These are the annual maintenance costs that will be required to keep the benefits flowing from the activity after it has finished, e.g. the salaries of local staff.)
- Finalize costs and total them to come up with a final budget estimate for the programme.



For more information and ideas about budgeting see Mango's [Budget](#) website. Mango is a UK-based non-profit focused on helping non-governmental organizations with financial management.

## FORMAL JUSTICE SECTOR

### MAIN STRATEGIES

The formal justice sector, consisting of the state government and its judicial officials, including judges, prosecutors, and court administrators, is charged with providing a fair and effective judicial response to acts of violence against women and girls. An effective judicial response prioritizes victim safety and offender accountability. It includes the opportunity to access redress for violence in a timely manner, the avoidance of re-victimization, and the enforcement of legal remedies, including appropriate sanctions and/or punishment for perpetrators. Main strategies to improve access to justice in the formal sector for women and girl survivors of violence are:

- Reform Discriminatory Laws
- Improve Response to Survivors
- Provide Training & Capacity Development
- Promote Rights-Based Education & Awareness
- Perform Regular Monitoring & Evaluation

Another important component of justice sector reform related to violence against women is collaboration amongst stakeholders and across sectors. This type of collaboration is known as a coordinated community response (CCR) to violence against women. Where coordinated responses do not exist, at a minimum, referral mechanisms should be in place. More information about a coordinated community response can be found on the [CCR Section](#) of this website.

### Reform Discriminatory Laws

Creating a legal framework that respects the human rights of women and girls is a critical step in justice sector reform. Access to the justice system is meaningless unless laws guarantee the rights of women and girls. From the constitution to national, regional, and local laws, the [legal framework](#) should reflect international principles of human rights, including the international agreements that enshrine women's rights.

Justice sector reform efforts should include a comprehensive review of laws that discriminate against women, directly or indirectly, to identify the gaps between international standards on women's rights and national legislation as written. Laws should criminalize violence against women and girls, but legal reform must go well beyond criminal laws. Reform of laws should also ensure that the legal framework provides civil remedies for violence and assures the equality of women in all justice sector processes.

Though certain laws may not directly relate to violence against women, they may facilitate this violence. For example, laws which discriminate against women in marriage

may involve many issues: a woman's civil status, her ability to enter a marriage of her own choosing, her legal capacity to own and administer property, her right to inherit, her right to her own nationality, and her rights and responsibilities with regard to her children. Abrogation of these rights makes women more vulnerable to violence. For example, a woman who has no rights in her home or land may be more likely to stay in an abusive relationship. The fear of loss of child custody or even visitation is another powerful barrier to leaving an abusive relationship. Or, she may be forced into homelessness by a spouse who takes another partner or wife and become at increased risk of sexual assault. A young girl without citizenship status may be more easily forced into an early marriage, and may be more likely to be victim of sexual assault (e.g. forced sex and marital rape) within marriage. A woman with no property may be more vulnerable to many forms of violence.

The Knowledge Module on Legislation examines specific laws on different types of violence against women and makes recommendations for change. The section on [Advocating for New Laws or the Reform of Existing Laws](#) in the [Legislation](#) module contains detailed information on the process of reforming unjust laws.

See the [Programme Implementation Section on Strategies for Reforming Unjust Laws](#) for more guidance.

## Improve Response to Survivors

Women and girls face numerous barriers to receiving justice in many countries. Victims of violence are aware that they won't be believed and that they could be ostracized or treated with disdain. They are concerned for their safety and the safety of their families, cognizant that dangerous consequences may ensue if they approach the justice system. They may not have the capacity, opportunity, or the funds to travel to a court or relevant government office. They may not be able to read information about the justice system, and they may not understand the language used by the justice system. They may not have money for child care or for court costs and filing fees. Many victims lack faith in the justice system, and with good reason: most cases of violence are not effectively prosecuted and sanctioned by the state and victims are often re-victimized by the justice system. Re-victimization occurs when women and girls are afraid or unable to access the justice system, when they are not treated with respect and concern by the justice system, when the justice system does not give them the assistance and support needed to rebuild their lives, and when the perpetrator goes unpunished. Many of these barriers are embedded in the infrastructure, policies, and practices of the formal justice system.

Immigrant and other marginalized women and girls such as those with disabilities face additional challenges and a responsive justice system should anticipate and meet these challenges for its most vulnerable citizens.

The justice system should improve its response to survivors of violence by addressing these barriers. It must implement timely resolution of violence cases (3-6 months from

first report) with a wide range of remedies for survivors, such as orders for protection, restitution, compensation, health and psychological assistance, and employment assistance. These barriers must be eliminated, including: corruption, lack of transparency, unenthusiastic and ineffective prosecutions, fees for medical examinations and court costs, unsafe courtroom design, lack of rural infrastructure, low female representation amongst the judiciary and its staff, insufficient record keeping, and poor courtroom management which allows delays, for example.

In fact, many survivors of violence are at further risk whenever they try to access the justice sector. By exposing the violence they experienced to the public eye, they risk the anger of the perpetrator and the indifference and hostility justice system professionals may display toward their case. Because of this reality, the primary goal of all justice sector actions should be victim safety.

## **Provide Training & Develop Capacity**

The capacity of the justice sector is not adequate to address the needs of women and girl survivors of violence in many countries. Basic knowledge on the forms of violence against women and their effect upon women and girls is lacking in many parts of the world. Addressing violence against women has long been a low priority of state governments, and this is reflected in the inadequate public budgets for systems designed for victims of violence and for training actors in the systems. Specialized courts which have expertise in gender-based violence should be widely available and should supplement the knowledge base of other courts. States should dedicate sufficient resources to [court infrastructure](#), including computers, office equipment, and safe courtrooms. States should establish, maintain, and update data collection systems on cases of violence to document the prevalence of violence, to keep track of repeat offenders so perpetrators may not avoid the consequences of re-offense, and, most importantly, so that the safety of women and girls is enhanced. Justice personnel, including court administrators, court clerks, bailiffs, and judges, referees, and magistrates at all court levels should receive regular and updated training not only on the laws but on all aspects of violence against women and girls and the issues faced by survivors. These [trainings](#) should be financed from state funding, involve women's rights NGOs, and supported by comprehensive protocols and guides which promote victim safety and offender accountability.

## **Promote Rights-Based Education & Awareness**

Social acceptance of violence against women is pervasive worldwide, particularly in the case of domestic violence. Acceptance of violence is perpetuated when women and girls are unaware of their rights under the law and when social attitudes that perpetuate violence remain unchallenged. Rights-based education, for women and for communities as a whole, is an important component of justice sector reform as it prepares women to claim their rights and advocate on their own behalf. Justice sector reform programmes must be cognizant however of the fact that two-thirds of adult women in the world are illiterate, making rights-based education for women and girls a unique challenge (UNESCO, 2008). Rights-based education for women, girls, and their communities can

nevertheless be effective in changing attitudes and slowly reversing social norms that restrict their access to justice. An important component of this process is education which provides an understanding of children's rights under the law. Rights-based education must be paired with provision of strong and effective services, so that women who become aware of their rights have avenues through which to claim them.

## **Perform Regular Monitoring & Evaluation**

Regular monitoring and evaluation of programme activities is critical to ensure that implementation of programmes remains focused on the ultimate goal of ensuring safety for women and girls, as well as accountability for perpetrators. Monitoring and evaluation begins with the collection of baseline data, continues with regular monitoring of systems that impact the programme as well as collection of data on designated performance indicators, and concludes with a final evaluation of the programme that compares outcomes to the data gathered during the baseline period. This process allows for continual programme improvements, ensures that goals and objectives are met throughout the process, and ultimately helps to ensure that the women and girls who need justice remain at the centre of programmatic work.

See the [monitoring section](#) for detailed guidance.

## CHALLENGES

- Formal Sector Reflects Wider Societal Biases
- Women May Not Have Immediate Capacity to Use the Formal System
- Limited Capacity/Resources to Change in the Short-term
- Little Motivation to Reform
- Limited Power to Change
- Evidence-base for Reforms May Not be Available
- Lack of Resources to Implement Reforms Effectively

### Formal Sector Reflects Wider Societal Biases

- Acceptance of the subordination of women, which often is codified and institutionalized in the formal sector, contributes to unequal laws and practices which violate women's human rights.
- The subordination of women can be exacerbated by other biases such as against race, sexual orientation, and disabilities.
- Women may fear that they will be shamed by the justice sector and their community if they report violence. Many people including judges and other actors in the formal justice sector, condone and/or falsely believe that women bring on violence by their actions, such as arguing with a spouse, dressing provocatively to go out, or walking alone at night. Women are often blamed for the violence perpetrated against them.
- Customs or traditions may not allow women to access the justice sector. In some countries, women may not travel alone, drive a vehicle, or may not spend a night away from home.
- Evidentiary rules may be biased against women. For example, in some countries, a woman's testimony is worth less than a man's testimony, or the burden of proof may fall on the victim instead of the state, for example in cases of rape.
- These longstanding social attitudes may be difficult to change but may also be a critical prerequisite for all other types of justice sector reforms.

### Women May Not Have Immediate Capacity to Use the Formal System

- Women have greater literacy challenges, are poorer, work longer hours, and have more responsibilities at home than men in most countries. Without the ability to understand written documents from the formal court and without the time or financial resources to access the formal courts, women generally need

substantial support to increase their capacity before they can access the formal system.

- Physical access to courts can be even more problematic for women if there are social restrictions on their ability to travel, and if they cannot leave their domestic duties or if they do not have the financial resources in order to travel.
- Local power dynamics, often male-controlled, may not be supportive of a woman's desire to access the justice system.
- The formal justice system is often seen as rigid and unresponsive to women's needs and is often staffed largely by males unwilling or untrained to handle gender-based violence.
- Women may prefer to access the informal justice system which is often just as discriminatory, and sometimes even more so, than the formal system.

### **Limited Capacity/Resources to Change in the Short-term**

- A lack of resources dedicated to the justice sector as a whole can present a significant barrier to change. The courts often are understaffed, overworked, and under-resourced. Qualified judges, prosecutors, or staff may be lacking. Staff may be vulnerable to corruption.
- Resources are often lacking on the most basic level- not enough copies of the law, computers, copy and fax machines, etc.
- Infrastructure may be lacking or may be in poor condition. Basic structural needs such as secure waiting rooms, interview rooms, and holding facilities may be lacking.
- Communication and coordination between ministries and local level judicial systems is poor.
- There is often a large backlog of cases which impedes reform efforts, in addition to delaying justice.
- Lack of fiscal resources within a country to hire additional staff required to implement change.
- Lack of appropriately-trained professional staff to implement change.
- Competition between ministries for scarce programme resources.

## Little Motivation to Reform

- There is a lack of political will to change existing policies and infrastructure to support a greater response to violence against women and girls. As a result, budgets are insufficient, improvements are slow or nonexistent, and training may be dependent upon outside funding, which affects sustainability of programmes.
- Training for new judges and prosecutors and ongoing training for existing judges and prosecutors may be insufficient on international women's human rights principles and country laws, policies, and procedures.
- Stakeholders (judges, prosecutors, politicians, and others) may have an interest in maintaining the status quo, thus contributing to women's mistrust of the justice sector.
- There may be a lack of national qualification standards for judges and prosecutors. Without a clear statement of criteria, appointments may be made based upon influence or prejudice.
- There may be a lack of detailed codes of ethical conduct for judges and prosecutors.
- Criminal procedure codes may impinge on rights of parties and should allow for timely trials, legal counsel, and other basic rights.

## Limited Power to Change

- Other branches of government may interfere with judicial independence.
- Complex and technical judicial procedures are challenging for all, including lawyers.
- Reform of the justice sector, in particular related to the human rights of women, can be highly politicized which limits the ability of courts to unilaterally reform themselves and may slow any process of change.

## Evidence-base for Reforms Is Still Weak

- Monitoring bodies are often non-existent, are underfunded, and lack independence.
- Limited communication between state officials such as judges and prosecutors and bar associations on goals of human rights in justice system impedes likelihood of monitoring by bar associations.



- Crimes of violence against women and girls are underreported and statistics do not reflect realities. Many statistics are not sex-disaggregated. Many criminal justice data collection systems do not have the capacity to provide information on case histories and dispositions.

## PROGRAMME IMPLEMENTATION

### *Where to begin?*

Implementation of strategies should be adapted to specific local and national country contexts. They must be prioritized considering the needs of survivors in the country, the availability of resources, and national policies and protocols. Training may not be the most effective first step. A possible sequence of implementation strategies is:

- Prioritize reform of laws, policies, procedures, and practices which prevent access to justice or which actively harm survivors such as rape laws which allow the perpetrator to escape punishment by marrying the victim. For full guidance, see the [Legislation](#) module. For national justice strategies, see the [International Development Law Organization](#).
- Mount an effective advocacy campaign targeted at reforms. (For full guidance, see the [Advocating for New Laws or the Reforming of Existing Laws](#) module.)
- Appoint specialized staff at entry points of justice system to provide respectful and helpful information to victims;
- Monitor the performance of prosecutors and judges on cases of gender-based violence and hold them accountable for failing to enforce laws;
- Upgrade the infrastructure of the justice system, such as office equipment, forensic supplies, investigation and transport resources; and
- Train prosecutors and judges on laws and dynamics of gender-based violence (Morrison et. al. 2004).

## Reform Discriminatory Laws

### *Treaty Ratification*

A first important step in reforming the justice sector to end violence against women is ensuring that the government has ratified key international treaties related to the human rights of women and girls. Important treaties to ratify include:

- [Convention on the Elimination of All Forms of Discrimination Against Women](#): States parties to CEDAW submit regular reports to the Committee on how the rights protected by the Convention are implemented in their country. The Committee considers each report and issues [concluding observations and recommendations](#) in response.
- [Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women](#)
- [Convention on the Rights of the Child](#)
- [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)
- [Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#)

- [Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict](#)
- [Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime](#)
- [Rome Statute of the International Criminal Court](#)
- [Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages](#)
- [The Geneva Conventions of 1949 and their Additional Protocols](#)
- [Convention of Belém do Pará](#)
- [Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa](#)
- [Council of Europe Convention on Action against Trafficking in Human Beings](#)

### What is discrimination against women?

Discrimination against women has been defined as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

(Source: United Nations. 1979. [Convention on the Elimination of All Forms of Discrimination against Women](#), Article 1.)

The majority of countries already have agreed to be bound by international treaties that support women's human rights. For those that have not, the following strategies may be employed:

- Promote an understanding of the utility of the proposed document in protecting women's rights.
- [Develop a strategy](#) to adopt the human rights document directed at state officials who have the power to promote its ratification.
- Identify and [involve key stakeholders](#) in the country who will support ratification.
- Involve international supporters who can demonstrate benefits of ratification.
- Involve the public, including those who will be most affected by ratification, such women's NGOs.
- Partner with women's NGOs to garner public support through awareness campaigns and media presentations.

Even though the government may have ratified these treaties, it may have made reservations (i.e., claimed to be exempt from certain provisions) at the time of ratification. If ratifications limit or deny the rights of women, a key focus of reform should be advocacy to remove the reservations. For more information on selected key human rights documents on violence against women, see the section on [Guiding Principles](#) in the [Knowledge Module on Developing Legislation to End Violence Against Women and Girls](#).

### Madagascar – Ministry of Justice in Madagascar Partners with NGO

In order to achieve legal reforms, to increase the implementation of women’s human rights, and to raise the awareness of magistrates on gender-based violence, the Ministry of Justice (MOJ) in Madagascar partnered with the Women’s Legal Rights Initiative Madagascar (WLR) **to publicly support amendments to increase age of marriage, establish equal rights for women, and increase implementation of women’s human rights.** A key component of the partnership was creation of a Memorandum of Understanding (MOU). The MOU detailed the terms of cooperation between the MOJ and WLR, specifying that the parties would:

- Establish 4 regional consultations with civil society organizations on proposed amendments to the family code. (6 consultations reached 300 participants.)
- Create a public awareness campaign with brochures, posters, and radio announcements about the proposed amendments. (More than 3000 brochures were distributed.)
- Create a training strategy with the Magistrates School on the implementation of women’s human rights treaties. (200 legal professionals and 200 law students were trained and the school now offers the training as part of its curriculum.)

Source: USAID. 2007. [The Women’s Legal Rights Initiative: Final Report](#).

→ **Tool:** *Memorandum of Understanding* (Ministry of Justice and The Women’s Legal Rights Initiative, 2006). Available in [English](#).

### ***Incorporation of International Standards***

There are also many non-treaty sources of standards on violence against women and justice sector reform. First and foremost, laws should be based on definitions and understandings established in the 1979 [Convention on the Elimination of All Forms of Discrimination Against Women](#) (CEDAW). CEDAW specifies that governments should take “all appropriate measures, including legislation, to ensure the full development and advancement of women...” (Art.3) CEDAW requires States Parties to ensure the equality of men and women through laws, establish legal protection of the rights of women, and take all appropriate measures to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. (Art.2)

Related to justice sector reform more generally, advocates should advocate for adoption of laws and regulations that are based on the following United Nations guidelines:

- [Basic Principles on the Independence of the Judiciary](#)
- [Guidelines on the Role of Prosecutors](#)
- [Basic Principles on the Role of Lawyers](#)
- [Basic Principles and Guidelines on the Right to a Remedy and Reparation](#)
- [United Nations Standard Minimum Rules for Non-custodial Measures \(The Tokyo Rules\)](#)

## Tools:

- *CEDAW Interactive Benchbook* (Ateneo Human Rights Center, 2008). Available in [English](#). For judicial practitioners, this benchbook focuses on how courts, through the development of case law, can uphold the rights of women using the CEDAW framework. The benchbook includes examples of cases, particularly cases of violence against women, and temporary special measures which can be utilized to achieve women's equality.
- *Checklist for Domestic Application of International Law* (Avon Global Center for Women and Justice). Available in [English](#). This tool highlights the main issues to consider when using international law at the domestic level.

**Constitutional Reform**

Constitutions should enshrine and guarantee women's human rights without exception. In particular, constitutions should:

- Prohibit discrimination based on sex.
- Guarantee equal rights and legal protection to both women and men.
- Guarantee equal rights and responsibilities between women and men in marriage including consensual unions, civil marriages, and customary marriages.
- Guarantee a woman's right to own, administer, and control property and land.
- Provide equal rights to women and men in inheritance and succession.
- Specify that conflicts between formal and customary laws are to be resolved in a manner that guarantees equality and non-discrimination.
- Exclude provisions that allow for exceptions that discriminate on the basis of gender, such as mandatory age of marriage set lower for females than for males, inheritance laws which favor male heirs, citizenship regulations which place a child's citizenship only with the country of the child's father and not the mother, and other customary or traditional practices which are not codified in law, such as women being forced to give up their land upon the death of a husband.

**Kenya – New Constitution a Chance for Significant Gains for Women**

Kenya passed a new [constitution](#) in August 2010. The new document contains numerous provisions related to the rights of women, and civil society groups in Kenya are making a major effort to ensure that these provisions are implemented effectively to secure gains for women. Violence against women is now explicitly a constitutional matter – Art. 27(3) explicitly demands equal treatment for women and men and Art. 29 states that every person has the right not to be subjected to any form of violence from public or private sources. Also, the changes made by the constitution relative to vetting

the judiciary, the structure of the police, and the mandate for devolved government could have a substantial impact on the way that crimes of violence against women are addressed. In order to take advantage of this transitional moment, the organization [CLICK \(Centre for Legal Information and Communication in Kenya\)](#) is working closely with parliamentary committees, the constitutional implementation commission and other bodies focused on constitutional implementation to provide expert input into how the provisions of the new constitution are operationalized.

Source: Interview with Makoyo. Executive Director, [CLICK](#). 2011.

### ***Review and Reform of Legislation***

Law reform should start with a comprehensive review of laws and their impact on women's ability to claim justice for violence. Justice sector reform processes should advocate for changing discriminatory laws by including provisions that support the human rights of women and amending provisions which discriminate against women. Specific strategies include:

- Support the reform of procedural and evidentiary policies and laws which devalue or disallow a woman's testimony. For example, in some countries, a woman's testimony is valued less than a man's testimony and in others two or more men must have witnessed an act of sexual violence against a woman.
- Abolish the [requirements of corroboration, force, and physical evidence](#) for crimes of sexual assault.
- Defenses such as "honor" and provocation should not be allowed in cases of violence against women.
- Recognize and account for the context of violence when women use violence against their abusers. Incorporate claims of self-defense and a requirement to discern the [primary aggressor](#).
- Perpetrators who are under the influence of alcohol or drugs should not be absolved of responsibility in cases of violence against women and girls.
- Ensure that courts can protect women through orders for protection and restraining orders, and that violation of protective orders is criminalized.
- Ensure that constitutional protections against discrimination in marriage are codified in statutory law to ensure effective protection of women and girls. For example, divorce or custody laws should comply with constitutional provisions that guarantee equality to women in marriage and family relations.

- Ensure that courts can address economic concerns of women and girl victims of violence, including maintenance, alimony, and child support. Economic justice is an important foundation for independence from battering.
- Ensure that reforms address inconsistencies among and within laws.
- Improve the status and opportunities of girls and women who do not have official identification documents. The lack of such documents creates lifelong problems in claiming such basic rights as education, participation in economic life, participation in political life, and claiming property rights through inheritance.
- Ensure that reforms address marginalized women such as migrant women who are often subject to violence. Permit access to justice to women independently of their immigration status and do not punish them (e.g. denounce them to the immigration authorities) for coming forward for redress from gender-based violence.
- Support the reform of inequalities which exist in property and land ownership laws, citizenship laws, inheritance laws, family laws, marriage laws, divorce laws, dissolution, adoption, and employment laws. Laws that codify women's subordinate status in the community and family are directly related to problems of violence against women.

### **Turkey – Tougher Sanctions for Violence Against Women and Girls**

After a massive campaign waged by civil society organizations in Turkey, the Turkish Penal Code was amended to abolish provisions that legitimized violence against women and girls in 2004. During the reform process, 30 amendments concerning gender equality and women were incorporated into the Penal Code.

Reforms include overarching definitions of sex crimes (i.e., no requirement of penetration), longer sentences for sex crimes, the criminalization of sexual harassment in the workplace, and the criminalization of marital rape. The amendments also prevent perpetrators of so-called “honor killings” from receiving sentence reductions and prevent perpetrators of sexual violence from receiving sentence reductions when they marry their victims. Additionally, terms such as “honor,” “morality,” “chastity,” and “decency” were removed from the Penal Code, as was the idea of “consent” in instances of sexual violence. The Turkish Penal Code reform movement demonstrates that even in tough political environments (a conservative government came to power in 2002) persistent civil society lobbying can lead to changes in laws that legitimize violence against women and girls.

Changes in laws may have unintended consequences for women and girls. In Turkey, the enforcement of full sentences against “honor” killers has caused some deaths to be disguised as suicides and some forced suicides.

Sources: Anil, Arin, Hacimirzaoğlu, Bingöllü, İlkaracan, and Amado. 2005. [Turkish Civil and Penal Code Reforms From a Gender Perspective: The Success of Two Nationwide Campaigns](#). and Bilefsky. 2006. [How to Avoid Honor Killing in Turkey? Honor Suicide](#).

### **Egypt – Legal Rights for Women and Children**

In Egypt, a significant number of women and children do not have a birth certificate or an identification card, making them ineligible for many social services, including primary education and pensions. A programme was designed to reduce barriers that women and girls face when accessing services and to offer them more opportunities to exercise their human rights. Strategies included: A nation-wide awareness campaign on the need for registration; educating legislative and governmental officials at all levels on the need for procedural and legal reform on registration; targeting assistance to minor girls in poverty-stricken households in obtaining birth certificates and identification cards; and training social service and health workers, other members of civil society, and registry officials on how to teach families about the importance of registering their children and on current registration procedures.

Source: World Bank. 2009. [Initiatives in Justice Reform 2009](#).

### **Bangladesh- Legislating against Acid Violence**

Acid attacks involve intentional acts of violence in which perpetrators throw, spray, or pour acid onto victims' faces and bodies. It is a form of gender-based violence that is prohibited by international law. Legislative reform can play an important role in addressing this devastating form of violence. Laws should be enacted that both appropriately punish the perpetrators and limit the availability of acid. Acid availability is linked to the prevalence of acid attacks and when the sale and use of acid is regulated the rate of acid violence decreases. Bangladesh, Cambodia, and India have the highest rates of recorded acid violence, but of those countries only Bangladesh has implemented laws to curb the easy availability of acid. Since 2002, when those laws and others relating to acid violence were adopted, Bangladesh has seen acid violence drop by fifteen to twenty percent a year. Several other countries—Cambodia, for example—are now considering the adoption of new legislation to more effectively address the problem of acid violence.

Source: Avon Global Justice Center for Women and Justice et al., [Combating Acid Violence in Bangladesh, India, and Cambodia](#) (2011).

Laws in areas such as commerce, property, and inheritance are directly connected to violence against women due to the effect which resources an economic autonomy have



upon independence, decision-making, and status. Poverty can increase the vulnerability of women and girls to violence, and violence against women and girls can contribute to their poverty as for example when girls leave school due to forced marriage or prostitution or women miss/are unable to work due to violence.

### ***Commercial and Labour Laws***

- Support the reform of commercial and labour laws which discriminate against women, including employment discrimination on the basis of gender. These laws may affect the ability of a survivor of violence to leave a situation of violence, to report the violence, or increase her vulnerability to further violence.
- Support the repeal of laws and the prohibition of practices that: disallow women from entering into contracts; disallow women from accessing financial credit or precondition their access on male consent or guarantee; restrict a woman from holding property as the sole owner; disallow women from administering their own business; limit a woman's right to effectively realizing or retaining her right to shared property with a man; restrict women's right to choose her domicile on the same basis as men; and directly or indirectly discriminate in the access by women to work.

### ***Property Laws***

- Support the reform of property and land laws to grant women the same right to own, manage, use and dispose of property that men enjoy. These laws should protect women's right to own, administer, and dispose of equal shares of property during marriage and at its dissolution.
- Support the repeal or amendment of laws that grant males a larger share of property at the dissolution of a marriage or upon a spouse's death.
- Support laws which accord equitable weight to monetary and non-monetary contributions, including unpaid domestic labour or agricultural work, upon division or distribution of joint marital property.
- Support laws that ensure that women have an equal right as men to be beneficiaries of agrarian reforms and land redistribution schemes.

### ***Marriage, Inheritance and Family Laws***

- Support the reform of inheritance laws to ensure that women are entitled to inherit on an equal basis with men, including in equal shares and equal rank in the line of succession.
- Work to repeal any laws that prevent women from inheriting on an equal basis at the death of a spouse.
- Work to repeal any laws that grant restricted rights of inherited property to a woman.
- Support the repeal and prohibition of laws and practices that allow polygamous marriages. Polygamous marriages are also considered unequal terms of marriage in international law ([CEDAW General Recommendation 25](#)) and may make a woman more vulnerable to violence.
- Work to repeal laws and practices that deny women equal rights and responsibilities with regard to their children. In countries that do not grant women

the equal opportunity to apply for or retain custody of their children, women may decide to stay in abusive relationships in order to maintain access to their children. Strategies include:

- Support laws that state that both parents, regardless of marital status, share equal rights and responsibilities for their children, including with regard to their guardianship, wardship, and trusteeship.
- Support laws which deny custody, guardianship, wardship, and visitation privileges to the biological father who committed the rape in cases where a child is conceived and born of an act of sexual assault.
- Support laws which restrict the custody and visitation rights of violent parents.

### Tools for Reforming Laws:

- Extensive information about reforming legislation is available in the [Legislation](#) module of this website.
- *Respect, Protect and Fulfill: Legislating for Women's Rights in the Context of HIV/AIDS* (Canadian HIV/AIDS Legal Network, 2009). Volume One is on Sexual and Domestic Violence, Volume Two is on Family and Property Issues. Available in [English](#).
- *United Nations Handbook for legislation on violence against women* (United Nations Department of Economic and Social Affairs and Division for the Advancement of Women, 2009). Available in [Arabic](#), [Chinese](#), [English](#), [Spanish](#), [Russian](#), and [French](#). A PowerPoint presentation on this United Nations model framework is available [here](#). A video dialogue between two experts discussing the model framework is available [here](#).
- *Supplement to the Handbook for Legislation on Violence Against Women: "Harmful Practices" Against Women* (United Nations Division for the Advancement of Women and United Nations Economic Commission for Africa, 2010). Available in [Arabic](#), [Chinese](#), [English](#), [Spanish](#), [Russian](#), and [French](#).

### Morocco – Discriminatory Personal Status Laws Reformed

In 2004, Morocco's Parliament made groundbreaking changes to the family code (moudawana) concerning family law matters. Before the 2004 moudawana reforms introduced more equitable and streamlined divorce procedures, women were sometimes mired in divorce proceedings for 10-15 years as they attempted to prove "mistreatment," whereas men could simply hand their wives a divorce letter. Now, both men and women can cite "irreconcilable differences" in a process that, legally, should last six months or less.

Women can now initiate a marriage without the permission of a male family member and the legal age for marriage has been increased from 15 to 18 years of age. Significantly, men are legally obligated to ask their first wives for permission before they are allowed to marry a second wife. Although the moudawana continues to leave women disadvantaged in certain circumstances, it represents a significant victory for greater gender equality in Morocco. The moudawana reforms demonstrate that even in

a deeply conservative society, relatively progressive legislation is possible when the head of state and civil society organizations push for change. Source: Harrak. 2009. [\*The History and Significance of the New Moroccan Family Code\*](#).

### *Implementing legal reform*

Legal reform does not end with the passage of a new or amended law. Strategies for successful legal reform beyond changing the language of the law include:

- Advocate for development of rules and regulations necessary to implement the law. For example, see *Rules of Procedure in Cases of Family Violence* (Government of Croatia and Ministry of Family, Veterans' Affairs and Intergenerational Solidarity, 2008. Available in [Croatian](#) and [English](#) (p. 25).
- Ensure that implementing regulations are enacted in a timely manner, within 6 months of the law coming into effect.
- Support national action plans that delegate implementation responsibility to specific ministries or government offices and that authorize funding for implementation.
- Support national action plans that incorporate a plan for regular monitoring and evaluation of the reformed law.
- Provide advocacy for women and girls to help them access remedies for violence. See section on [establish and expand legal assistance programmes for women and girls](#).

See sections on [Implementation](#) and [Advocating for New Laws or the Reform of Laws](#) in the module on [Legislation](#).

### ***Engage in Strategic Litigation***

Ongoing human rights monitoring (more information is available in the [Legislation: Monitoring](#) section of this website) can often provide the basis for identifying cases that should be litigated as part of an overall strategy of justice sector reform – this is known as strategic litigation, also called impact litigation or public interest litigation. Strategic litigation uses the justice sector to achieve legal and social change through test cases. Strategic litigation is also sometimes called impact litigation because it seeks to have an impact beyond the actual outcome of the case. Unlike the provision of legal services, strategic litigation's goals are broader than helping an individual client. Even if losing the case is the most likely result, organizations may decide to engage in strategic litigation as part of a broader campaign on a human rights issue. Strategic litigation can be used to:

- Change law or policy that violates the constitution or international human rights norms
- Identify gaps between domestic legal standards and international human rights standards
- Ensure that laws are interpreted and enforced properly

(Rekosh, 2003).

Strategic litigation can be conducted in any judicial forum, whether local or national courts, or before international judicial and quasi-judicial bodies. Strategic litigation has been used for many years to advance civil and political rights, women’s rights, the rights of indigenous people and other minorities, the rights of prisoners, the rights of children, housing rights, and many other human rights issues.

<b>Potential Benefits of Strategic Litigation</b>	<b>Potential Risks of Strategic Litigation</b>
<ul style="list-style-type: none"> <li>• Win a desired outcome for the client or group of clients</li> <li>• Set important precedent</li> <li>• Achieve change for similarly situated people</li> <li>• Spark large scale policy changes</li> <li>• Empower clients</li> <li>• Raise awareness</li> <li>• Encourage public debate</li> <li>• Highlight the lack of judicial independence or fairness on a given issue</li> <li>• Provide an officially-sanctioned platform to speak out on issues when government may be trying to silence voices on that issue</li> </ul>	<ul style="list-style-type: none"> <li>• Unduly burden client</li> <li>• Political backlash</li> <li>• Risk safety of client, especially marginalized groups</li> <li>• Privilege political or strategic goals over individual goals</li> <li>• Set bad precedent</li> <li>• Undermine judiciary by highlighting lack of independence or power on a given issue</li> <li>• Expend valuable resources on a case that may be very difficult to win</li> </ul>

***When should practitioners consider strategic litigation?***

Effective strategic litigation requires that many variables come together in the right way and at the right time. Strategic litigation is much more than a simple legal case – it is an entire strategy and involves assessing the characteristics of the client, the legal issues, media interest, partnerships with other groups, judicial history on this and similar issues, costs, timing, etc. The following are some key questions to consider before starting litigation:

- Is there a legal issue involved that exemplifies or relates to a broader social or societal problem?
- Would a court decision be able to address the problem?
- Are your cause and the key issue in the case easy to understand for the media and the general public?
- What is the client’s goal and how can the lawyer help the client clarify the goal(s)?
- What level of commitment does the client have to achieving the goals?

- Beyond litigation, are there are other methods of achieving the client's goal(s)? Are these more or less likely to be effective?
- What are the strengths and weaknesses of the client's case? What are the strengths and weaknesses of the opposition's position? What are the legal claims and how strong are those claims on the merits, within the system and in public opinion?
- Who are the opponents and what is the estimated level of commitment to that opposition? Who are their supporters?
- Who else has an interest in the issue and what are those interests? Will they support the client's position?
- Will those with an interest be willing to work together on reaching a solution? Are other actor's with a less defined interest able to support the issue?
- How difficult will it be to prove the case? How costly will it be?
- Is there an alternative or compromise that will meet the needs of both sides? Is exploration of other avenues an option?
- How likely is it that the court will look favorably on the action?
- What political repercussions will follow either a win or loss in court?
- Is the legal theory clear and simple, and is the remedy easy to implement?

Questions excerpted from: Wilson, and Rasmussen, [Promoting justice: A Practical Guide to Strategic Human Rights Lawyering](#), 2001, at 61-62; Geary, [Children's Rights: A Guide to Strategic Litigation](#), 2009, at 8.

### **India and Bangladesh – Landmark Public Interest Litigation**

In 1997, a group of activists and NGOs in India filed a class action alleging that the pervasive sexual harassment of women in the workplace violated several articles of the Constitution of India. Specifically, the action alleged that sexual harassment violated the right to gender equality, the right to life and liberty, and the right to practice any profession, trade, or occupation. The case was filed after the brutal gang rape of a social worker in Rajasthan. The Court noted that the laws in India had not sufficiently protected the rights of women workers and that the Court had a duty to “fill the legislative vacuum.” See: [Vishaka and others v. State of Rajasthan](#), para. 3.

In its opinion, the Court stated that “[g]ender equality includes protection from sexual harassment and [the] right to work with dignity, which is a universally recognized basic human right.” (Vishaka, para. 10) The Court also specifically referenced the Convention on the Elimination of All Forms of Discrimination Against Women, recognizing the Indian government's ratification of CEDAW and its commitments regarding women's rights made at the Fourth World Conference on Women in Beijing.

*Vishaka* has had broad implications in India and beyond. Several cases have come before the Indian courts and led to further interpretation of *Vishaka*. Moreover, in 2008, a coalition of NGOs in Bangladesh filed a petition similar to that in *Vishaka* alleging that sexual harassment constituted a violation of Bangladesh's constitution ([Bangladesh National Women Lawyers Association v. Gov. of Bangladesh and Others](#)). Following

much of the reasoning of *Vishaka*, and quoting the Indian Supreme Court among others, the Supreme Court of Bangladesh issued guidelines with the force of law similar to those issued in *Vishaka*.

### ***Ethical Considerations in Strategic Litigation***

One of the defining features of strategic litigation is that the broader policy goals behind the litigation generally trump the interests of an individual client. This raises important ethical considerations that must be extensively examined and discussed with the client early on. In particular, if the litigation is likely to fail to bring a remedy for the client but there are reasons to pursue it nonetheless, there are some critical questions that must be explored:

- Should the lawyer encourage the client to continue the case despite a low likelihood of success?
- Will the client willingly sustain a long appeals process if this is necessary?
- Does sufficient financial support exist to see the case to conclusion?
- Can the case be submitted to a regional human rights body?
- If the particular court is likely to be adverse is changing venue an option?
- Do the potential auxiliary benefits of a failure outweigh the burden of litigation the client faces?
- What extra-legal work can be done to support the case? Will such efforts undermine the judicial process? Will such efforts create a sustainable change in the situation?
- Does the lawyer have a duty to explain the overall strategy to the client regardless of whether it affects her case? Is it ethical to “fail to inform” of an auxiliary reason for the strategy? Is there ever a justifiable reason for a client to lack awareness of the strategy?  
(Wilson & Rasmussen, 2001).

### ***Strategies to Support Strategic Litigation***

- Develop the capacity of lawyers to bring public interest cases to national and regional and international forums.
- Provide training on international human rights standards and international jurisprudence.
- Support NGOs with legal expertise to initiate important cases to advance women’s rights. For example, the [Zimbabwe Women Lawyers Association](#) advances test cases to confirm that laws are being administered in a manner consistent with women’s rights. See Programming Initiative on ZWLA
- Support NGO shadow reports on CEDAW.

Tools:

- ***NGO Participation at CEDAW sessions*** ([International Women’s Rights Action Watch Asia Pacific](#) (IWRAP Asia Pacific)) gives details on how to submit a shadow report to the CEDAW committee, by a non-governmental organization which distributes NGO shadow reports to CEDAW experts in advance of the session. Available in [English](#).

- ***Working with the United Nations Human Rights Programme: A Handbook for Civil Society*** (United Nations, Office of the High Commissioner on Human Rights, 2008). Available in [Arabic](#), [English](#), [French](#), [Russian](#), [Spanish](#), and [Chinese](#).

### Using International Forums to Advance the Right of Women and Girls to be Free of Violence

International forums can be effective means for recourse on violence against women and girls. Certain criminal mechanisms such as the [International Criminal Court](#) and the [International Court of Justice](#) hear claims by states or United Nations bodies such as the [Security Council](#) which may involve large-scale incidences of violence against women and girls such as mass rapes in conflict areas. International and mixed/hybrid war crimes tribunals have been established to redress war crimes, crimes against humanity, and genocide for atrocity crimes, including gender-related crimes, in places like the former Yugoslavia, Rwanda, Sierra Leone, Timor Leste, and Cambodia. The gender justice jurisprudence emerging from these war crimes tribunals has firmly established that gender crimes can constitute war crimes, crimes against humanity, genocide, torture, enslavement/sexual slavery, persecution, and other serious crimes, and that even one instance of these crimes deserves redress.

Tools:

- ***Analysis of International Jurisprudence Involving Sexual and Other Gender-Based Violence During Conflict*** (Avon Global Center for Women and Justice, Cornell Law School International Human Rights Clinic, 2010). Available in [English](#).
- ***Progress and Gaps in International Law in Securing Justice for Survivors of Gender-Based Violence During Conflict*** (Avon Global Center 2010 Women and Justice Conference). See the [video](#)
- The [Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women](#) (2000) allows individuals to bring complaints or inquiries to the independent experts of the [Committee on the Elimination of Discrimination against Women](#), when there has been an alleged violation of [CEDAW](#).

For example, in 2005, the [Committee on the Elimination of Discrimination Against Women](#) found that the complainant, although she sought help from Hungarian civil and criminal courts and child protection authorities, did not receive any assistance or protection from the Hungarian government. The case involved allegations of severe domestic violence. The Committee found that Hungary had violated the rights of A.T. under the Convention, and made recommendations to Hungary that it act to protect the safety of the author and act more generally to effect the rights granted under the Convention. ([A.T v. Hungary, 2005](#)).

Other important United Nations Mechanisms include the United Nations Special Rapporteurs. They can bring single or joint cases of violence against women and girls that fall under their mandate to the attention of the state or states concerned and request the state to take preventative or remedial measures and to report back to the Special Rapporteur.

Special Rapporteurs relevant to cases of violence against women and girls include the [Special Rapporteur on violence against women, its causes and consequences](#), the [Special Rapporteur on the sale of children, child prostitution and child pornography](#), the [Special Rapporteur on Contemporary forms of slavery, its causes and consequences](#), and the [Special Rapporteur on trafficking in persons, especially women and children](#).

### Tools for Submitting Cases to International Mechanisms

- *Summaries of Jurisprudence: Gender-based Violence* (Center for Justice and International Law, 2011). Available in [English](#) and [Spanish](#).
- The Avon Global Center for Women and Justice at Cornell Law School provides access to international instruments and case law relating to gender violence and women's access to justice. A central feature of this collection is a database of international, regional, and national court decisions that advance gender justice, for example, in cases involving sexual violence, intimate-partner violence, trafficking in persons, and discriminatory inheritance or succession practices. By providing these resources free of charge, the Center seeks to assist judges, advocates, and other users in applying international and comparative law that advances access to justice for survivors of gender-based violence and discrimination. Available in [English](#).
- How to submit cases to the Committee on the Elimination of Discrimination against Women. Available in [English](#).
- How to submit cases to the United Nations Special Rapporteur on Violence Against Women. Available in [English](#).
- How to submit cases to the United Nations Special Rapporteur on the sale of children, child prostitution and child pornography. Available in [English](#).
- How to submit cases to the United Nations Special Rapporteur on Contemporary forms of slavery. Available in [English](#), [French](#), and [Spanish](#).
- How to submit cases to the United Nations Special Rapporteur on trafficking in persons, especially women and children. Available in [English](#).

### ***Using Regional Forums to Advance the Right of Women and Girls to be Free of Violence***

A number of cases in regional forums such as the [European Court of Human Rights](#) and the [Inter- American Court on Human Rights](#) have proven to be effective



methods of reinforcing the duty of a state to protect women and girl victims of violence. Selected decisions follow:

Example: In the 2007 case of [Kontrova v. Slovakia](#), the [European Court of Human Rights](#) affirmed the obligation of state authorities to take appropriate protective measures when an individual's rights are at risk of being violated by another. In this domestic violence case, the complainant had reported to the police that her husband beat her and that her husband had been physically and psychologically abusing her for a long time. A few days later, the woman's husband accompanied her to the police station where she withdrew her complaint. The police did not take any further action, and, following another incident of domestic violence a few weeks later, the husband shot and killed the complainant's two children and then himself. In its decision, the Court articulated the circumstances under which a positive obligation on the part of state authorities arises: "For a positive obligation to arise, it must be established that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk." The Court found that the police were aware of the risk to the complainant and her children, based on the complainant's previous report of abuse suffered at the hands of her husband and his continued threats of violence with a shotgun. The Court held that the authorities' failure to launch a criminal investigation, commence criminal proceedings against the husband, and take action regarding the husband's continued threats amounted to a violation of the right to life protected by [Article 2](#) of the [European Convention on Human Rights](#).

Example: In the case of [Bevacqua and S. v. Bulgaria](#), decided in 2008, the [European Court of Human Rights](#) found that Bulgaria had violated Article 8 of the [Convention for the Protection of Human Rights and Fundamental Freedoms](#) for failing to assist a victim of domestic violence in the prosecution of her abuser and for failing to reach a decision within a reasonable amount of time on the issue concerning the custody of the victim and abuser's child. The victim had suffered domestic abuse at the hands of her husband and was seeking a divorce and custody of their one child. Under Bulgarian law, when domestic abuse consisted of a light bodily injury, the individual had to prosecute the offender. The Court found that it was unreasonable to expect the victim to prosecute in this domestic violence case, and that in doing so Bulgaria violated its obligations under Article 8 of the Convention. The Court also found a violation of Article 8 on the issue of prompt response on child custody during the interim of the divorce proceedings.

Example: In [Caso González y Otras \("Campo Algodonero"\) v. Mexico](#) (Spanish only), released in December, 2009, the [Inter-American Court of Human Rights](#) (IACHR) found that the Mexican government did not uphold the human rights of its citizens under the [American Convention of Human Rights](#) and the [Convention of Belém do Pará](#) by failing to investigate the deaths of three women in Ciudad Juarez, which has been the site of massive, and unsolved, sexual violence and femicide since 1993. The IACHR ruled that Mexico has the obligation to legislate and act with due diligence to prevent, investigate

and sanction violence against women. It stated that Mexico violated the human rights of the families of the victims by failing to guarantee their access to justice. The IACHR ruled that the Mexican government must implement a number of remedies, including paying more than \$200,000 to each of the families of the three women, taking steps to find the perpetrators of the femicide, and creating a monument in commemoration of hundreds of murder victims.

Example: In April 2009, the [European Court of Human Rights](#) issued a decision awarding damages to eight Romani women in the case of [K.H. and Others v. Slovakia](#). The Court found that Slovakia had violated [Article 6](#) (right to a hearing regarding civil rights and obligations) and [Article 8](#) (right to family life) of the [European Convention on Human Rights](#) by wrongfully sterilizing the women without their consent.

Example: In [Opuz v. Turkey](#), decided by the [European Court of Human Rights](#) in June, 2009, the Court found that gender-based violence is a form of discrimination prohibited under the [European Convention on Human Rights](#), and that Turkey violated its obligation to protect women from domestic violence by failing to adequately respond to the complainant and her mother's reports of brutal domestic violence perpetrated by the complainant's husband over a twelve-year span. Ultimately, the abusive husband shot and killed the complainant's mother. The complainant brought the case after fruitless attempts to pursue justice within Turkey's courts. The Court noted that although Turkey has laws against domestic violence, the laws are not being implemented by police and prosecutors and the judicial system is for the most part unresponsive to reports of domestic violence. In this landmark ruling, the Court ruled that Turkey was liable for failing to protect the deceased victim and her daughter. Additionally, for the first time the Court held that Turkey's failure to respond to domestic violence amounted to a violation of the right to non-discrimination on the basis of sex ([Article 14](#)) under the European Convention. This is considered to be a major development in the Council of Europe's legal framework for women's rights issues. The Court also found that Turkey had violated the European Convention's right to life ([Article 2](#)) and the right to be free from torture and ill-treatment ([Article 3](#)).

Example: In [Branko Tomasic v. Croatia](#) (2009), the [European Court of Human Rights](#) reiterated the state's obligation to prevent, suppress, and punish breaches of the criminal law put in place to secure the right to life protected by [Article 2](#) of the [European Convention on Human Rights](#), as articulated in the 2007 case of [Kontrova v. Slovakia](#) described above. The Court found that the authorities failed to fulfill this obligation. Despite the complainant's allegations that the father of her child had made repeated threats of violence and a psychiatric opinion that the man had a severe personality disorder, he was released after serving a short sentence. After being released, the man murdered his wife and daughter and then killed himself. The Court found that the steps taken by the Croatian authorities were insufficient in that they failed to search his home or vehicle, despite his having threatened to throw a bomb at the complainant and their daughter. Additionally, the Court stated that the psychiatric treatment ordered was too brief, that there was no evidence it had been actually and properly administered

while he was in prison, and that there was no assessment prior to the man's release from prison in order to determine the risk he continued to pose to others.

Example: In 2010, the [Inter-American Court of Human Rights](#) (IACHR) issued rulings in two cases involving the rape of indigenous Tlapanec women by Mexican soldiers, [Rosendo Cantú y Otra v. México](#) (Spanish only) and [Fernández Ortega y Otros v. México](#) (Spanish only). The Court stated that Mexico failed to uphold “the rights to personal integrity, dignity and legal protection” of the two victims. Both women were raped in 2002 after being approached and questioned by a group of soldiers. The women first sought justice from local authorities, but effective investigation and prosecution of the crimes was prevented by indifference and discrimination towards the victims. The cases were eventually turned over to Mexico's military courts, which ruled there was not enough evidence to convict the soldiers. The two victims next brought their cases to the [Inter-American Commission of Human Rights](#), which referred them to the IACHR. The IACHR's decision awarded damages of more than \$100,000 to each of the victims, and ordered that Mexico amend its legal system so that human rights violations such as these will no longer fall under the jurisdiction of military courts.

Example: In the case of [Rantseva v. Cyprus and Russia](#) (2010), the [European Court of Human Rights](#) held that the government of Cyprus violated the [Convention for the Protection of Human Rights and Fundamental Freedoms](#) by failing to protect Oxana Rantseva, a Russian citizen, from trafficking and exploitation in Cyprus. The Court found that Cyprus violated Article 2 (guaranteeing right to life), Article 4 (prohibiting slavery, servitude, and forced labor), and Article 5 (guaranteeing the right to liberty and security) of the Convention. Ms. Rantseva obtained an “artiste” visa to work in a cabaret in Cyprus, however, she worked at the cabaret for only a few days. Thereafter, her employer requested that Cypriot law enforcement and immigration authorities arrest her for remaining in Cyprus illegally after abandoning her place of work. Instead, the authorities returned Ms. Rantseva to her employer. Soon after, she was found to have died under mysterious circumstances. This case is significant because the Court held that human trafficking falls within the scope of Article 4 of the Convention, and that Cyprus violated its obligations under this provision because its “artiste” visa regime rendered employees so dependent on their employers that an environment was created where exploitation was likely to occur. The Court also found that Cyprus failed to adequately train law enforcement officials to investigate when there is an indication that trafficking is taking place. The Court also held Russia responsible for failing to comply with Article 4 of the Convention by not investigating the recruitment aspect of international trafficking, such as the possibility that individual agents or networks operating in Russia were involved in trafficking Ms. Rantseva to Cyprus. The governments of Cyprus and Russia were each ordered to pay damages to Ms. Rantseva's father.

Example: In the 2010 case of [Hajduova v. Slovakia](#), the [European Court of Human Rights](#) found that Slovakian authorities violated the [Convention for the Protection of Human Rights and Fundamental Freedoms](#) by failing to comply with their statutory obligation to order that the applicant's former husband be detained in an institution for

psychiatric treatment immediately following his criminal conviction for having abused and threatened her.

In the course of criminal proceedings for the abuse and threats, it was established that the applicant's former husband suffered from a serious mental illness and required treatment as an in-patient at a psychiatric hospital. The court decided not to impose a prison sentence and held that he should instead undergo psychiatric treatment. Although the applicant's former husband was transported to a hospital, the institution did not carry out the treatment he required, and the court did not order such treatment to be carried out. The applicant's former husband was released from the hospital, and he commenced threatening the applicant, her attorney, and others. The applicant then brought the case, alleging violations of her rights under the Convention. The Court held that, under the circumstances of the case, the Slovakian government had failed to take sufficient action to protect the applicant by immediately detaining her husband for psychiatric treatment. In coming to this conclusion, the Court noted the particular vulnerability of victims of domestic violence and the need for state action to protect them.

Although it will not be a complaint-based mechanism, at the European level, GRIEVO (Group of experts on action against violence against women and domestic violence) was established by the Council of Europe convention on preventing and combating violence against women and domestic violence.

Regional forums include the [African Court on Human and Peoples' Rights](#) which hears cases of human rights violations in African Union states and the [Court of Justice of the Economic Community of West African States](#) (ECOWAS Court of Justice) which can, according to its Additional Protocol, hear cases from individuals on violations of their human rights.

Selected regional decisions follow:

Example: In [Doebbler v. Sudan](#), the [African Commission on Human and Peoples' Rights](#) held that the lashing of eight female students violated Article 5 of the African Charter, and requested that Sudan abolish the punishment of lashing and compensate the women for their injuries. The women, students of the Nubia Association of Ahilia University, were arrested for engaging in immoral activities that violated the public order, in contravention of Sudan's Criminal Code, which incorporates Islamic *Sharia* law. The immoral activities the women committed consisted of "girls kissing, wearing trousers, dancing with men, crossing legs with men, sitting with boys, and sitting and talking with boys." The women were punished with fines and between 25 and 40 lashes. The lashing took place in public by use of a wire and plastic whip. The wire and plastic whip were unclean, the lashing was not under the supervision of a doctor, and the women were bareback in public while they were lashed. The Commission found that the lashing violated Article 5 of the [African Charter on Human and Peoples' Rights](#). It requested that Sudan abolish the punishment of lashing and compensate the women for their injuries.

Example: In [Koraou v. Niger](#) (2008), the [Court of Justice of the Economic Community of West African States](#) (ECOWAS Court of Justice) held that the Republic of Niger was responsible for the experienced by Hadijatou Mani Koraou. When she was twelve years old, Koraou's tribe leader sold her as a domestic servant and concubine to a forty-six-year-old man, El Hadji Souleymane Naroua of Hausa. For nine years, Ms. Koraou spent her days performing domestic duties for Mr. Naroua while being subjected to forced sexual acts. Nine years after Ms. Koraou was sold, Mr. Naroua presented Ms. Koraou with a document of emancipation. However, he refused to let her leave the house and claimed that Ms. Koraou was his wife.

Ms. Koraou began legal action, but prior to a final determination on the proceedings, she married another man. After he learned of this other marriage, Mr. Naroua brought a charge of bigamy against Ms. Koraou in the criminal division of the Konni High Court. Ms. Koraou, her brother, and the man she married were all sentenced to six months in prison. While Ms. Koraou was detained, her counsel filed a complaint with the public prosecutor against Mr. Naroua on grounds of slavery. The Konni High Court that previously adjourned found for Ms. Koraou on the "divorce action" and held that she must "observe a minimum legal period of three months of widowhood before any remarriage." Ms. Koraou was released from prison and submitted a case to the ECOWAS Community Court of Justice. The Court found that Ms. Koraou was a victim of slavery in violation of Article 5 of the [African Charter on Human and Peoples' Rights](#) and other international instruments, and that the Republic of Niger was responsible due to the inaction of its administrative and judicial authorities. It ordered the Republic of Niger to pay Ms. Koraou 10,000,000 CFA (Central African Francs) plus costs as reparation for the harm that she suffered.

### Tools for Submitting Cases to Regional Mechanisms

- For information on how to bring a case to the European Court of Human Rights, click [here](#). (Instructions provided in many languages.)
- *Questions and Answers* (Registry of Court, European Court of Human Rights). Available in [English](#) and [French](#).
- *A Practical Guide on Admissibility Criteria* (Council of Europe and European Court of Human Rights, 2010). Available in [English](#) and [French](#).
- For information on how to bring a case to the Inter-American Court of Human Rights, see *Petitions and Consultations Before the Inter-American System* in [Spanish](#) and [English](#).
- For information on how to bring a case to the African Court on Human and People's Rights, click [here](#).

- For information on how to bring a case to the ECOWAS Court of Justice, click [here](#).
- The Avon Global Center for Women and Justice at Cornell Law School provides access to regional instruments and case law relating to gender violence from around the world. Available in [English](#).
- The Avon Global Center for Women and Justice's [Legal Resources Collection](#). Vetted, searchable database that includes summaries and full-text decisions by regional human rights bodies relating to gender-based violence. Summaries available in [English](#), decisions available in multiple languages.
- CEJIL, *Summaries of Jurisprudence, Gender-Based Violence* (2011). Collection of decisions from international and regional human rights bodies addressing gender-based violence. Available in [English](#) and [Spanish](#).

## Improve Response to Survivors

Survivors have many valid reasons for not engaging with the justice system: fear of the perpetrator, fear of public exposure, fear that the remedies won't meet their needs, and fear of family reactions among many other social and economic factors. The justice sector can directly address some important survivor fears such as the fear that she will be disbelieved and the lack of faith that the justice system will effectively prosecute and punish the perpetrator.

Improvements to justice sector response to survivors should begin at the top levels of the justice sector with the Ministry of Justice and continue through court system enhancements, improvement of judicial response, prosecutorial response, and the response of all of the other actors in the court system, such as court administrators, court clerks, bailiffs, and court centre staff. An overarching strategy for improvement should be victim-centred and focused on survivor safety above all. Specific strategies for the various justice system actors to improve the response to survivors follow.

### ***Working with the Ministry of Justice to improve response to survivors***

The Ministry of Justice is responsible for an effective, impartial, and accessible justice system. In many states, the Ministry of Justice disseminates information about the legal system to legal professionals and to all citizens. It may also advise Parliament on legal matters, draft laws and amendments, and administer legal assistance programmes. The Ministry of Justice often provides oversight of courts, commissions, and prosecutors. It is often the liaison between the executive branch and the judicial branch. It has the power to reach beyond the courtroom or court building to implement broad strategies to improve the justice system response to survivors.

### ***Establish a culture of accountability***

The Ministry of Justice should support a zero-tolerance policy on violence against women and girls. When a justice system provides swift and sure punishment for acts of violence, it conveys the message to society that violence against women and girls is not acceptable, deflects shame from the victim, and may deter future acts of violence. Ministries should:

- Establish prosecution and sentencing guidelines. Women and girl victims of violence need assurance that their case will receive the same resources as non-gender-based violence cases and that the perpetrators will be subject to the same sentencing guidelines as perpetrators of non-gender-based violence cases.
- Monitor the decisions of judges and prosecutors to ensure compliance with the guidelines
- Promote the possibility for Ministries to appeal acquittals or inappropriate sentences.
- Provide public awareness on successful prosecutions of violence against women and girls by issuing regular media updates.
- Demonstrate a commitment to ending gender violence by sponsoring policy forums and technical exchanges between countries.

### ***Ensure development of legislative support and monitoring systems***

- Ministries should develop, in consultation with justice sector professionals and NGOs, [protocols, policies, and guidelines](#) to implement legislative provisions on violence against women and girls.
- Ministries should work to coordinate across sectors and with other ministries who may be responsible for certain elements of the justice system. For example, survivor support personnel may be educated under the supervision of the Ministry for Social Services and not the Ministry of Justice. Addressing these challenges requires a vigorous commitment to cross-training.

**Example:** the Ministry of Women’s Affairs in Afghanistan involved a number of ministries and judicial sector stakeholders in the development of the Elimination of Violence against Women Commission. The working group created a multi-strategy [plan](#) covering legal awareness, access to justice, support for victims, compilation of statistics on violence against women, and strategies to improve the capacity and resources of the Commission.

### **Philippines – Supreme Court Leads in Reforming Court Management**

After the Philippines experienced a peaceful revolution in 1986, the Supreme Court spearheaded systematic reforms in the justice sector aimed at restoring the credibility of the judiciary, enhancing efficiency in the justice sector, and increasing access to justice among marginalized populations. These reforms have important implications for women and girls who are victims of violence.

Several noteworthy aspects of judicial reform in the Philippines lend the effort particular longevity and credibility. First, the reform effort was conceived and implemented from “the top,” by the [Supreme Court](#). Second, the reform programme was created with systemic challenges in mind. Both of these factors are important considerations for increasing access to the justice sector among women.

Beginning in 1987, the Supreme Court instituted reforms ranging from an early code of conduct, to increased training for judicial personnel, to the structural re-organization of courts. These early efforts set the stage for the Chief Justice’s 1998 policy paper on judicial reform, which later evolved into the more formal [Action Program for Judicial Reform \(APJR\)](#). The APJR, adopted by the Supreme Court in 2001, “established a coherent multiyear plan with priorities and cost estimates” as well as, significantly, “a programme management office to assure policy oversight, coordination, monitoring...and follow-up actions” (Asian Development Bank, 2009). The action plan was slated to last from 2001 to 2006 and targeted [the following areas](#): judicial management systems and structures, the independence and accountability of the judiciary, personnel management, training and development, professional ethics, and access to justice by marginalized groups.

The Supreme Court specifically examined access to justice among women. Through a joint United Nations Development Program (UNDP) [study](#), it was found that gender biases in the court system impede women’s access to justice even though women’s rights are evidenced in the legal framework. Broadly speaking, the report found that:

*The main manifestations of gender bias against women in the court system are (a) the negative attitudes toward female victims and offenders; (b) trivialization of sexual and domestic violence, where women are often judged as having provoked the violence or seduced the rapist; (c) gender-insensitive court procedures; (d) gender stereotypes affecting court action; and (e) under-representation of women in the courts.*

In order to address the gender biases uncovered in the report, the Supreme Court drafted an action plan to mainstream gender in the judiciary system. The [plan](#) encompassed gender-sensitivity training for judges and other judiciary personnel, incorporating gender issues into the curriculum at law schools, making courts gender-responsive, and establishing certain mechanisms and committees intended to further the goal of a gender-responsive judiciary. One particularly significant aspect of the plan involved the compulsory allocation of a certain percentage of the judiciary budget for gender programmes.

While the Supreme Court’s gender mainstreaming action plan is likely to have a direct impact on women’s access to justice, other judiciary reforms are also likely to have a long-term, albeit more indirect impact, on women’s access to the justice sector.

For instance, long delays and congestion in court often prevent women and girls who have been victims of violence from accessing justice. To address court efficiency, the Supreme Court re-organized court jurisdictions and areas of specialization with an eye



to achieving timely justice and efficacy. The Office of Court Administration (OCA) was re-organized in order to decrease delays, and a large project of decentralization was undertaken to transfer court administration functions to regional offices. Furthermore, court management systems were computerized in the Supreme Court, Court of Appeals, Courts of Tax Appeals, and Sandiganbayan (special courts that investigate graft). Taken together, these reforms resulted in the courts' ability to handle an increased caseload (Asian Development Bank, 2009).

In addition to issues of efficiency, perceptions of or actual corruption and lacking integrity of the judiciary also discourage women and girls who have experienced violence from accessing justice. In order to increase public confidence in the judiciary, the Supreme Court adopted a [code of conduct for judiciary professionals](#) in 2004. The Philippine Judiciary Academy conducts training on the ethics code, and enforcement is done through the OCA. This code of ethics is upheld through positive and negative reinforcement, with the Supreme Court "imposing sanctions for misconduct" and providing "positive incentives to improve performance, such as judicial excellence awards." (Asian Development Bank, 2009).

***Aftermath and Impacts:***

Although the APJR ended in 2006, the Supreme Court continued to enact APJR-inspired reforms as of 2009. Most recently, for instance, reforms aimed at improving access to justice produced the [Justice on Wheels Program](#). These mobile courts will not only bring justice to remote villages but will also fulfill human rights education and outreach functions. Other APJR reforms, such as the continuing decentralization of court administration, have also continued past 2006.

Although some of the issues continue to need improvement within the Filipino judiciary system, the continuation of reforms beyond the APJR speaks to the role of the Supreme Court in the formulation of the reform plan as well the systematic nature of the effort.

With regard to women's access to justice, both a systematic effort and leadership from the top are important factors in effecting change. As mentioned previously, reforms in both the "access to justice" area and areas such as efficiency and accountability ultimately play a role in increasing women's access to the justice sector. As a result, a systematic reform campaign is important in addressing the multidimensional barriers women face in accessing justice.

Furthermore, leadership from the Supreme Court was important in lending the reform effort an air of legitimacy and seriousness. UNDP. 2003. [Promoting Gender Sensitivity in the Philippine Court System in the Philippines](#).

→ *New Code of Conduct for the Philippine Judiciary [annotated]* (USAID, ABA-ROLI, Supreme Court of the Philippines, 2007). Available in [English](#).

- Ministries should develop and sustain the capacity to obtain statistics on the prevalence of violence against women and girls through large-scale, dedicated surveys or smaller modules within other health or demographic surveys. Ministries should require the criminal justice system to disaggregate law enforcement and crime data by gender, age, and relationship to enhance its usefulness in tracking violence against women. If there are types of violence that are regionally-relevant, such as dowry-related deaths, ministries should require [data collection](#) on these issues as well. For more on quantitative data collection, see the [Monitoring of Laws](#) section of the [Legislation](#) module.
- Ministries should develop independent [monitoring systems](#) for the performance of judges and prosecutors. Ministries should work with professionals from the justice sector and NGOs who work with victims to develop the system, but the system should operate independently of any of the actors which developed it.
- Ministries should allocate sustainable funding to the education of law students on [international human rights standards](#) and additional training for judges and prosecutors on human rights standards and their application to cases of violence against women.

## Tools:

- ***Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice: Resource Manual*** (International Centre for Criminal Law Reform, 1999). Section IV provides sentencing guidelines and policy recommendations for sentencing cases of violence against women. Available in [English](#) and [French](#).
- ***Broadening the Concept of “Justice” for Women and Girl-Survivors of Conflict Violence*** (Avon Global Center 2010 Women and Justice Conference). See the [video](#).
- ***Six-Point Checklist on Justice for Violence Against Women*** (Amnesty International, 2010.) Available in [English](#), [French](#), [Spanish](#), [Arabic](#), and [Chinese](#).

***Improve physical access to justice for women and girls***

- For many in rural areas, justice is simply too far away. The Ministry of Justice should employ a two-pronged approach to the issue of physical distance: staff strategically-located facilities with a judge and a court clerk on a regular basis; and offer tangible means of support for survivors of violence who participate in court hearings.

- Analyze population location and strategize towards a geographic spread in order to achieve relative proximity for all citizens to adequate facilities in locations within one day's journey. These facilities should be staffed at least on a rotating basis. Accommodation and travel expenses should also be included in the budget for judges who must travel to intermittently-staffed court locations.
- Increase the ability of victims to travel. For criminal trials, states should pay a travel stipend, food allowance, hotel, and a child care allowance for victims of violence in order that they may travel to the court where the defendant is being held. Travel and accommodation arrangements should also be made for victims of domestic violence.
- Authorize the use of telephone, fax, or internet technology so that rural victims can easily participate in preliminary interviews or hearings, protection order hearings, plea and bail proceedings, and other matters. For example, the Vanuatu Women's Centre is able to obtain Domestic Violence Protection Orders by fax from other parts of the country (AusAID, 2008).
- Support the creation of mobile courts which travel to rural areas on a regular basis.

#### **CASE STUDY: The Fizi Mobile Court: Access to Justice for Survivors of Sexual Violence**

As a result of a successful collaboration between judicial officials in the Democratic Republic of Congo (DRC), the Open Society Justice Initiative (OSJI), the Open Society Initiative for Southern Africa (OSISA), and the American Bar Association's Rule of Law Initiative (ABA ROLI), some of the survivors of brutal sexual assault at the hands of soldiers in a remote area of DRC received timely justice from a mobile court held outdoors in a small, rural town.

The DRC has experienced over ten years of conflict, and rampant sexual violence been met with impunity for the most part. The [International Criminal Court](#) (ICC) is able to hear just a few atrocity cases each year so local justice is desperately needed, particularly in remote areas. The DRC mobile courts have both military and civil jurisdiction and were designed to focus on sexual violence, though they have discretion to hear other crimes as well. In one year the mobile courts heard 186 cases in the South Kivu area, 115 of which were rape cases.

One mobile court in Bakara found four senior officers guilty of rape and terrorism as crimes against humanity and five soldiers guilty of rape and inhumane acts. The crimes occurred in a New Year's Day, 2011, rampage in the village of Fizi, South Kivu, DRC. The four officers were sentenced to 20 years imprisonment and the soldiers were sentenced to 10 or 15 years.

The project's designer determined the following key strategies for success:

- The mobile court was implemented by local Congolese officials from both military and civil sectors.
- Judicial officials and lawyers for all parties received specialized training.
- The 49 victims were allowed to testify in private.
- When necessary or requested, victim's identities were shielded from the public.
- A large crowd was present at the outdoor trial, promoting accountability and education.
- International observers lent credibility to the proceedings.

In the Fizi trial, investigation, arrests, trial, and convictions all occurred within 2 months, and the project's designer attributed the speed not only to the mobile court, but to pressure from international and United Nations sources and community outrage. The project's designer said:

*“When the local government and judicial processes, the United Nations, NGOs, donors, media and international actors work together, even those leading, ordering or directing attacks can be tried and convicted of war crimes, crimes against humanity, and genocide. This is possible in places devastated by war and largely operating without a functioning rule of law system. With the ICC going after the highest level accused often out of reach of domestic jurisdictions- and the local courts, including mobile courts, going after lower level suspects- accountability can become the norm, and impunity the exception.”*

The aid to victims has been expanded to fund a legal clinic to provide victims with assistance from the beginning of the decision on whether or not to testify through post-trial procedures to obtain reparations awarded at trial.

Source: Askin. 2010. [Fizi mobile court: rape verdicts](#) and email correspondence with Dr. Kelly Askin, on file with The Advocates for Human Rights.

### **South Africa – Builds Courts in Rural Areas**

After the end of apartheid in 1994, the newly-democratic government of South Africa began to expand physical access to justice by building new courts in rural and township areas. In 1999, this goal was cited as a priority by the Minister of Justice and Constitutional Development. By 2003, 23 new courts had been constructed, 58 had been renovated, and numerous others were in process of being built or planned. As part of this initiative, a High Court has been built in Limpopo, one of South Africa's nine provinces, to eliminate the need for Limpopo residents to travel to neighboring

provinces for High Court hearings. In addition to constructing new courts, the government has also upgraded a number of branch courts into full courts.

Source: AfriMAP and Open Society Foundation for South Africa. 2005. [South Africa: Justice Sector and the Rule of Law](#).

### ***Incorporate safety features into facilities***

- The Ministry of Justice should support the renovation of physical facilities to incorporate safety features with survivors of violence in mind. Ministry renovation plans should include:
  - At least two entrance/exits on opposite sides of the building, so that survivors may safely enter or leave the building.
  - Separate waiting rooms for parties to cases of violence against women and girls.
  - Signage and documents in all widely-spoken languages of the country.
  - Centrally-located restroom facilities for women and girls.
  - Separate courtroom areas for plaintiffs and defendants which are not within arms reach.
  - Metal detectors and security guards at all entrances.
  - Space for private videotaping or closed circuit television testimony.

### **Tools on Court Safety:**

- ***Steps to Best Practices for Court Building Security*** (National Center for State Courts, 2010) organizes the steps to court building security in phases designed for implementation by courts with limited resources. Available in [English](#).
- ***Guidelines for Implementing Best Practices in Court Building Security*** (National Center for State Courts, 2010) contains worksheets to prioritize security measures and compare actual costs. Available in [English](#).
- Domestic Violence Safety Plan, “**Be Safe at the Courthouse**” section of the American Bar Association website. Available in [English](#).

### **Armenia – Improves Safety by Renovating Courthouses**

From 2000 to 2006, the World Bank-funded Judicial Reform Project in Armenia targeted several aspects of the judicial system, including the physical state of courthouses themselves. Soviet-era standards for the judiciary often mean that courthouses were located in cramped, dilapidated buildings and did not provide adequate security for those seeking justice. One courthouse in central Yerevan, for instance, was located in a crumbling apartment building where defendants, judges, and other individuals all shared

the same space. The project moved courts to a sturdier building, set up metal detectors, separated defendants from the general public, and installed a card-operated security system. A total of 12 courthouses were either renovated or rebuilt as part of the initiative.

Source: World Bank. 2005. [Renovated Courthouses Give New Meaning to Justice](#).

### ***Establish specialized courts, dockets, and prosecutor units for cases of gender-based violence***

- Ministries should support the creation of [specialized courts](#), including mobile courts, for cases of violence against women and girls.
- Ministries should support the creation of specialized dockets for handling cases of violence against women if specialized courts are unavailable. A specialized docket dedicates a time frame and a judge or judges to a type of case. Specialized dockets are a less costly way to prioritize cases of violence and to allow judges to become more familiar with the relevant issues. Cases can be put directly on the specialized docket rather than the more congested regular docket.

For more information, see also: [Specialized courts/tribunals for violence against women](#) in the Legislation Module.

### ***Establish supportive management of judicial staff***

- Support the provision of an adequate living wage for all levels of the judiciary. If state budgets for adjudicators are not sufficient for a living wage, they may be more likely to accept bribes. Salary levels for new adjudicators should meet living wage standards and should increase with seniority.
- Encourage the Ministry of Justice to provide security for judges in appropriate cases. If security is provided to judges handling sensitive cases, they will be able to withstand attempts to intimidate or influence their decisions. Public knowledge of security procedures will inhibit the use of threats and offers of bribes. Funding for the development and maintenance of a security system for judges will enhance their safety and reduce actual and perceived corruption in the judicial sector.
- Support the appointment of trained female judges and court administrators at all levels of the court system. This will increase women's confidence in the formal justice sector system and help to give it legitimacy. The female professionals will bring a different type of experience to their work than men, and they can act as role models for other women.
- The Ministry of Justice should create training and informational programmes for aspirant judges, with attendant publicity to women lawyer's associations.

- The Ministry should also create a directory of qualified women lawyers and make the directory a part of the consideration plan when judicial openings are being filled (Cowan, 2006).

### Georgia – Rigorous New Exams for Judges

After the dissolution of the Soviet Union, newly-independent Georgia was left with a weak and corrupt judiciary. In order to vet current judges and candidates for judicial posts, Georgia instituted a [rigorous system of qualifying examinations in 1998](#).

This method identified and replaced incompetent judges, but it also created a [young and inexperienced judiciary](#). In 2000, roughly half of all practicing judges in Georgia were newly qualified, and in 2006, the Chief Justice of the Supreme Court was 30 years old.

In order to boost the capacity and skill-set of newly qualified judges, Georgia undertook a number of reforms in the legal education sector. With help from [USAID](#) and other donors, a Judicial Training Centre was established to offer training and technical assistance to judicial personnel. Judges' salaries were increased in order to stem corruption, and the court system was reorganized to promote efficiency. Pepys. 2003. [Combating Judicial Corruption in the Republic of Georgia](#)

### ***Establish dedicated court-affiliated service centres for women and girl survivors of violence***

Ministries should create specialized service centres for survivors in cases of violence against women and girls. Well-equipped and competently-staffed centres (see indicators for both descriptors below) will increase reporting of acts of violence, improve safety and conviction rates, and increase timely resolution of cases. Ministries should:

- Locate centres in or near court buildings.
- Seek support from local and regional government officials to increase sustainability.
- Entrances/exits and all floors and restrooms should be physically accessible for women and girls with disabilities.
- Design centres to provide comfort and assistance to victims of all ages with:
  - Private rooms for reporting, treatment, and counseling.
  - Shower or bath facilities and clothes for after the examination.
  - A small kitchen to provide hot meals for victims.
  - Child-sized beds, chairs, and examination equipment.
  - Special equipment for child victims of sexual violence, including anatomically correct dolls and drawings, two-way mirrors, comfort toys such as teddy bears, and child-appropriate snacks and clothes.
- Designate specially-trained centre staff to provide immediate care, including:

- A site coordinator to oversee victim treatment, to explain that treatment is in no way conditional on reporting the violence and to explain any exceptions to that policy, such as when children or vulnerable adults are victims. Site coordinators should work to ensure that re-traumatization of the victim does not occur and that victim safety and confidentiality are highest priorities. See [interviewing and counseling guidelines](#).
- Female medical professionals trained in [efficient and compassionate collection of forensic evidence](#).
- Female medical professionals to provide information and counseling on treatment for sexually-transmitted infections and HIV/AIDS. See detailed guidance in the [Health](#) module.
- Advocates who will explain the court process and the process for obtaining an order for protection.
- Advocates who are trained to perform a [danger assessment](#) in a confidential setting with victims.
- Law enforcement staff trained to make effective police reports and provide sensitive and thorough case investigation.
- Social service professionals trained in counseling victims of all ages.
- Government staff to help victims apply for restitution or damages (a payment from the offender for damages related to the violence) and compensation (a payment from a state fund for crime victims).
- Staff who are specially trained to [provide sensitive treatment of child victims of sexual violence](#).

### Malaysia – Effective One-Stop-Centres

[One-stop service centres established in Malaysia](#) established by the national government, have been recognized as a promising practice in the [2006 Secretary-general's in-depth study on violence against women](#) and replicated by others all over the world. At the centres, the survivor is seen by a doctor and a counselor in a private room. If she chooses to seek shelter, the doctor or the counselor arrange transport or keep her in the hospital briefly. She may also be referred to social worker. A police unit at the hospital is available for her report and to start investigations.

The [Barnahús](#) or Children's House, Iceland, is a one-stop centre for sexually abused children. It provides a non-threatening atmosphere for victim interviews by specially-trained professionals. The interviews are videotaped for possible use in court, and can be observed by a police, social workers, lawyers, advocates and judges. The Children's House was created by the Government Agency for Child Protection in Iceland.

Source: [Barnahús](#), last acc. 3-10-11.

- Centres should also provide follow-up care including:
  - Lawyers and paralegals who offer [free legal assistance](#) in all court proceedings.



- Interpreters who are free of charge and who offer [free translation](#) of legal documents.
- Victim advocates who can make informed referrals to health professionals, employment services, and housing services such as emergency shelters, transitional housing, and long-term housing and who can provide support by accompanying survivors to appointments and judicial hearings.

### **South Africa – Thuthuzela Care Centres**

South Africa has instituted Thuthuzela Care Centres (TCC), as part of a national anti-rape strategy. The TCC are attached to specialized Sexual Offenses Courts. They provide safety and comfort to survivors, and they have improved conviction rates and timely resolution of cases through efficient collection of evidence and good communication with police and prosecutors. The comprehensive centres provide a quiet place for survivors to be examined, give statements, and receive counselling, medical assistance, and legal assistance, free of charge. Centre staff, on duty 24 hours, includes medical professionals, a social worker, a police officer, a victim assistance officer, and a dedicated case monitor. The victim assistance officer gives the victim information about the examination, procedures, and filing the complaint. The case monitor acts as a liaison between the victim and the court system. A site coordinator oversees coordination of all services so that secondary victimization is avoided. (USAID, 2008) The Thuthuzela centres have also become more child-friendly as levels of child victims have increased. Donors have partnered with the centres to provide specialized equipment which will aid in the prosecution of these cases, including two-way mirrors, posters, drawings, and anatomically-correct dolls.

#### **Services offered**

- Welcome and comfort from a site co-coordinator or nurse.
- An explanation of how the medical examination will be conducted and what clothing might be taken for evidence.
- A consent form to sign that allows the doctor to conduct the medical examination.
- A nurse in the examination room.
- After the medical examination, there are bath or shower facilities for the victims to use.
- An investigation officer will interview the survivor and take his/her statement.
- A social worker or nurse will offer counseling.
- A nurse arranges for follow-up visits, treatment and medication for Sexually Transmitted Infections (STIs), HIV, and AIDS.
- A referral letter or appointment will be made for long-term counseling.
- The victim (survivor) is offered transportation home by an ambulance or the investigating officer.
- Arrangements for the survivor to go to a place of safety, if necessary.
- Consultations with a specialist prosecutor before the case goes to court.
- Court preparation by a victim assistant officer.

- An explanation of the outcome and update of the trial process by a case manager.

See a [report](#) on establishing a Thuthuzela Care Centre.

See the Thuthuzela Care Centres [brochure](#).

Sources: UNICEF. 2010; Quast. 2008; South Africa Prosecuting Authority. [Thuthuzela: Turning Victims into Survivors](#).

### **USA – One-Stop Centre for Domestic Violence in Midwest**

The [Domestic Abuse Service Center](#) (DASC) of Hennepin County, Minnesota, USA, serves people who are victims of actual or threatened violence caused by a family or household member or someone with whom they have had a romantic or sexual relationship. At the DASC, court staff help victims complete the paperwork for an order for protection, submit the order to a judge for review and signing, and take the order to the sheriff's office to be served on the other party. Other advocacy and service agencies for domestic violence victims are also on site.

### **USA – New York's Integrated Domestic Violence Courts**

New York State's Integrated Domestic Violence Courts offer an innovative approach to handling cases involving criminal allegations of domestic violence. They connect each affected family with one judge, who may hear multiple types of cases, including family, criminal, and matrimonial matters. This eliminates confusion in court orders and streamlines the justice process for victims. The courts work with the community and with agencies to provide social services and assistance to victims.

Sources: [Integrated Domestic Violence Courts](#) (New York Courts); [Interview, Tompkins County Judge John Rowley](#) (Avon Global Center).

### **Kosovo – Assistance for Victims**

In Kosovo, the Department of Justice (UNMIK) created a Victim's Advocacy and Assistance Unit in 2002. Its goal was to assist victims as they participated in the justice system and to make the victim's interests a part of the justice system. Some of the Victim's Advocates work exclusively with the victims of gender-based crimes. By 2005, they had assisted in 1,408 cases of gender-based violence.

Source: UNFPA. 2005. [Gender-Based Violence in Kosovo: A Case Study](#)

### **Tools for Establishing Government- Affiliated Response Teams and One-Stop Centres:**

- ***Developing a Sexual Assault Response Team: A Resource Guide for Kentucky Communities*** (Kentucky Association of Sexual Assault Programs, 2002). Available in [English](#). This guide, adaptable for use in any community, contains information on:
  - What is a sexual assault response team
  - Steps to organize a sexual assault response team
  - Forming a task force and surveying community needs
  - Writing and approving protocols
  - Overcoming potential barriers
  - Evaluating possible sites for the project
  - Financial considerations, including a checklist for sustaining funding.
- ***Delivering Post-rape Care Services: Kenya's Experience in Developing Integrated Services*** (Kilonzo et.al., 2008). Available in [English](#). Analyzes service delivery problems in 2003 in Kenya, illustrates development of a post-rape care services algorithm, training programmes and challenges, including cooperation between the health and judicial systems, costing, and summaries of lessons learned.
- ***Danger Assessment*** (Campbell, 2004) Available in [English](#), [Spanish](#), [Portuguese](#), and [French Canadian](#).

### **Tools on Victims' Rights:**

- The Home Office, United Kingdom, provides victims of sexual offenses with an informative [webpage](#), including a [virtual walkthrough](#) that describes court processes and a [video](#) on testifying in court for witnesses.
- ***Le Guide de Droits des Victimes*** (Republique Francaise Ministère de la Justice, 2007). Available in [French](#). A handbook for women victims of violence and their advocates.
- ***Domestic Violence: a Guide for Victims and Witnesses*** (The Crown Prosecutor's Service, United Kingdom). Available in [English](#) and [Welsh](#).
- ***Service Charter for Victims of Crime in South Africa*** (Gender Directorate, Department of Justice and Constitutional Development, Government of South Africa). Available in [English](#). Rights of victims of crime, complaint information.
- For guidance related to specific sectors (such as health), see the detailed modules and search the tools database on this [site](#).

### ***Establish and expand legal assistance programmes for women and girls***

Ministries of Justice should ensure that legal assistance is widely available and accessible to women and girl victims of violence. Ministries should:

- Offer legal assistance for cases outside the criminal system. Legal assistance programmes often are limited to criminal cases. Yet, women often have claims in family law, inheritance, and property matters, and the resolution of these cases often has a strong bearing on a woman's ability to create a life free of violence. For example, a woman may not be able to leave a marriage or claim her rightful interest in property due to the high costs of litigation.
- Design broad criteria for eligibility for legal assistance. Legal assistance should be available not only to women who are single and meet income-level criteria, but also to married or partnered women who may not be eligible if their partner's income is considered, but who may be seeking legal assistance based upon partner abuse or who may not have access to their partner's income.
- Improve physical access to legal assistance programmes. A lack of transportation, child care, funds to travel, and the opportunity to travel may preclude a woman from seeking legal assistance. Legal assistance programmes should be readily available in a variety of contexts. Programmes should be located in urban and rural areas in women's shelters or NGOs, childcare facilities, health care clinics, or dedicated street or walk-in legal clinics. An advantage to holding legal assistance programmes in women's NGOs or shelters is the presence of other forms of assistance, such as financial aid or psychosocial counseling. Clinics should be staffed on a regular basis with lawyers or paralegals. Programmes in non-dedicated locations should provide private areas for consultation.
- Eliminate court costs to pursue claims on violence against women. Many women are precluded from accessing the justice system due to the high cost of pursuing a claim. Not all cases involving violence will enter the courts through the criminal system. All court costs and filing fees in cases of violence against women should be eliminated, including in cases of domestic violence and sexual harassment.
- Promote and expand the use of paralegals with specialized training on issues involving women and girl survivors of violence. Paralegals are individuals with training in legal issues who are not lawyers. Paralegals should be trained on issues of gender-based violence and on the ability to communicate sensitively to survivors. Paralegals can provide information on legal rights to survivors at lower cost than lawyers; however, they cannot represent survivors in court proceedings, and should not be an "end point" of assistance for survivors of violence. Paralegals should always have access to attorneys for victims who decide to access courts of justice.

Paralegals should promote access to women and girl survivors of violence through [community programmes of legal awareness and education](#).

## Development and Use of Paralegal Programmes Around the World

### ***Guatemala - Community leaders become certified paralegals***

Women community leaders, concerned about the prevalence of domestic violence near Guatemala City after receiving training on violence against women and justice issues, concluded that they wanted to become certified paralegals in order to assist domestic violence survivors. Steps were taken to develop a paralegal programme:

- The Women's Legal Rights Initiative Guatemala formed an alliance with a local justice centre, the Justice Center of Villa Nueva, to host the trainings.
- The partners worked with the Institute of Comparative Criminal Studies to develop curricula and training materials for the women leaders.
- Graduates of the Gender and the Law Program at the University of San Carlos offered technical expertise to the paralegals through workshops and consultations.
- The Justice Center, the Institute, and graduates of the Gender and the Law diploma and master's programmes designed training manuals, and the graduates designed the training curriculum and taught the paralegals.
- As a result, a network of paralegal women, trained on issues of gender-based violence, serve women in their community. The paralegals also developed a manual on family violence for low-literacy readers which describes its effects on women and demonstrates how to help survivors of violence with legal and community resources.

See the *Paralegal Manual on Domestic Violence* (Community Paralegals, published by The Women's Legal Rights Initiative, 2006). Available in [Spanish](#).

Source: USAID. 2007. [The Women's Legal Rights Initiative](#).

- Utilize professional bar associations to extend legal assistance programmes. Although the primary responsibility to provide legal assistance to women and girl victims of violence should lie with the state, the resources of bar associations can provide important support. Bar associations can promote the provision of pro bono or free-of-charge community lawyer services by recruiting volunteers, publicizing outstanding efforts, and creating service awards at the peer level. They can encourage well-resourced law firms to dedicate a percentage of their billable hours to pro bono work, and recognize firms which achieve these standards. This strategy is most effective if states provide a tax incentive for law firms to donate billable time and if lawyers are required to perform a certain number of pro bono hours each year in order to retain their license to practice law. Training should be provided for volunteer lawyers on violence against women issues. For contact information for bar associations worldwide, click [here](#).
- Utilize law schools to extend legal assistance programmes. Law schools can create clinics which specialize in serving women and girl victims of violence. Law-school-

affiliated clinics can combine practical assistance with principles of women's human rights. Clinic graduates will expand the capacity of their profession to respond to women's legal issues. Law schools have the resources and capacity to utilize clinics to advance ground-breaking public interest litigation cases on issues on violence against women. Law school clinics should be designed to be sustainable: Line-item budgeting, pursuing private endowments, long-term leadership, and regular establishment in law school curriculum on equal par with other coursework will help ensure sustainability. For example, [The Protection Project](#) worked with the Ministry of Justice of Egypt and the Alexandria University Faculty of Law to establish a Family Law Legal Clinic. This Clinic, which provides assistance to victims of domestic violence and other vulnerable community members, is now a mandatory part of the curriculum. The Protection Project also provides support to the Clinical Legal Program at Qom University, Iran.

- Encourage retired lawyers to staff NGO legal assistance programmes or walk-in clinics. The experience of retired lawyers can provide a significant benefit for women and girl survivors of violence. The state should provide training on legal issues common to survivors of violence, and, importantly, on sensitivity to issues around gender-based violence. Retirees should be provided with necessary office equipment to ensure success. The ministry should partner with the judiciary in this project. The judiciary's involvement in recruiting, monitoring, and recognizing achievements of retired volunteer lawyers could provide a significant incentive for able individuals to provide this service. Peer and community recognition could reinforce their continued desire to serve.

#### USA – Tahirih Justice Center

The [Tahirih Justice Center](#) in Virginia, United States, provides representation in immigration law to women and girls fleeing gender-based violence by utilizing a network of over 600 lawyers across the nation who donate their services. Tahirih is able to maximize and support its volunteer base by:

- Offering co-counsel services by Tahirih staff attorneys;
- Providing immigration law training;
- Providing ongoing mentorship to volunteers;
- Maintaining regular contact via an email newsletter on relevant legal issues;
- Offering an [E-Forum](#) for network attorneys which provides training and support materials; and
- Providing lawyers with case management support for non-legal needs of clients such as referrals for social and medical services.

Source: <http://www.tahirih.org/>.

### Cambodia - Women's Justice Program

The [Women's Justice Program](#), a project of [Legal Aid of Cambodia](#) (LAC), was established with aid from the [United Nations Development Fund](#) (UNDP) in March 2008 to increase women's access to justice. In addition to providing direct legal services to women in three provinces, largely in cases of divorce and/or gender-based crimes, the Women's Justice Program conducts outreach to relevant institutions such as the Women's Affairs Departments, Police Commissariats, and District Governors to provide information regarding legal services available for women. Further, the programme organized a [workshop](#) attended by government and civil society stakeholders who discussed the challenges faced in providing women with greater access to justice and suggested strategies to overcome these obstacles. After eleven months of operation, the programme had undertaken 135 cases and an increase in the number of women requesting the programme's services was noted. Among the obstacles discussed at the workshop were: the unwillingness of provincial court clerks to cooperate with Women's Justice Program lawyers, delays in investigating and prosecuting criminal charges, insufficient witness and victim protection, biases of judges, infrequent registration of marriages, lack of judicial independence, and absence of a code of ethics for judges and prosecutors. Strategies identified included: creating greater availability of free legal and social services for women, promoting the use of marriage certificates, providing further training for police and women, and prohibiting mediation in cases of serious crimes.

Source: Legal Aid of Cambodia. 2009. [Legal Representation for Women: Constraints and Lessons Learned](#).

### Zimbabwe – Women Lawyers Help Women Represent Themselves

The [Zimbabwe Women Lawyers Association](#) (ZWLA) provides legal training to groups of women facing similar legal issues, enabling them to represent themselves in magistrate-level court proceedings. The organization also trains court clerks, magistrates, and chiefs, who operate in rural areas of Zimbabwe. The organization also advocates for laws that will provide legal protection to women and was instrumental in the passage of the [Domestic Violence Act](#) and new inheritance laws. By bringing forth test cases, ZWLA confirms that laws are being administered in a manner consistent with women's rights. Finally, ZWLA offers legal **assistance** through clinics at its two offices (located in Harare and Bulawayo) and through mobile legal **assistance** clinics that operate in rural areas.

Source: [Zimbabwe Women Lawyers Association](#) last acc. 16-11-2-10

Tool:

- **Gender-Based Violence Legal Aid: A Participatory Toolkit** (ARC International, 2005). Available in [English](#). This guide provides information on

assessing the need for, status of, and appropriate responses to gender-based violence in both conflict and non-conflict settings.

### ***Establish and expand language-accessible services***

Ministries should prioritize language-accessible services and interpretation in the justice sector. Language barriers should be fully addressed in court processes: Language barriers can be insurmountable for victims of violence. Ministries should support the provision of signs and interpreters in court buildings and for all cases involving violence against women. The following strategies will increase access to justice for women and girls:

- Install signage in court facilities in local languages with picture signs for women with low or no literacy.
- Use [language identification cards](#) to identify the language of women and girls who approach court services.
- Provide court documents, forms, and necessary information in local languages.
- Provide interpreters for all court hearings. This may be costly, but it is fundamental to increasing access to justice.
- Train interpreters to explain the protections offered, the sentence imposed, and victim options for input, restitution, and compensation.
- Train interpreters in issues of violence against women. Publish standards of conduct for interpreters in cases of violence against women.
- Establish a licensing procedure for interpreters in cases of violence against women so that qualified interpreters may be accessible to court administrators.
- Train interpreters to work with disabled victims.
- Provide brochures and posters on court information in relevant local languages. Utilize input from women's NGOs in developing these brochures and posters.
- Develop volunteer interpreter programmes with proper training for court work.
- Publish laws and court decisions in all local languages. This may also be costly but is essential to gain public trust in an open and impartial judicial sector.
- Provide videos in common local languages to explain the court process to survivors. This will help the survivor know what to expect and make the court process less intimidating.
- Educate on cultural differences as well as language differences.

A newsletter for court interpreters detailed 5 recommendations to ensure best practice interpretation for survivors of all types of violence against women and girls:

1. Implement testing, training, and monitoring procedures which assess interpreter proficiency as well as understanding of legal and ethical obligations.
2. Provide interpreters with specialized training in issues of domestic violence, sexual assault, and child abuse. Emphasize the link between confidentiality and victim safety. Teach interpreters how violent offenders may use the court process to intimidate and threaten survivors.



3. Train interpreters on the effects of secondary traumatization and provide them with supervision and support.
4. Train judges and lawyers on effective use of interpreters and how to monitor interpreters for bias on issues such as domestic abuse or sexual assault.
5. Require interpreters to undergo background checks to identify any history of domestic abuse, sexual assault, or child abuse. Question them before each case on possible conflict of interest (Huelgo et al., 2006).

### USA – Assisting Limited English Proficiency and Hearing Impaired Persons

The [Minnesota Judicial Branch, Fourth Judicial District Limited English Proficiency Plan](#) provides a framework of assistance for limited English proficiency and hearing impaired persons who come into contact with the Hennepin County District Court in Minnesota, United States. It contains a list of translated forms and documents with website links to make them available to the public. The Proficiency Plan also includes a list of other resources which are available at the court centre:

- Spanish Hotline
- Bilingual Staff Roster and Policy (Available languages: Spanish, Hmong, Somali, Italian, French, and Hebrew)
- Self-Help Center Somali Liaisons
- Translated Right to Court Appointed Interpreter Signs
- Translated directional signs
- Instructions for “How to Request an Interpreter for a Court Hearing”
- Telephone Interpreter Services
- Closed captioned jury video
- Assisted listening devices
- Language identification flashcards in 38 languages
- “I need an Interpreter” cards in 10 foreign languages commonly spoken in Minnesota
- English/Spanish Court Terminology Glossary
- Tips for Serving Deaf Court Customers
- English/American Sign Language Glossary
- Online communication aids, including translation services and glossaries

### Tools for Addressing Language Barriers:

- ***Aequilibrium: Instruments for Lifting Language Barriers in Intercultural Legal Proceedings*** (Keijzer-Lambooy and Gasille, eds.,2004). Part II contains information for vulnerable groups. Part IV contains a toolkit with criteria for interpreter registration, fee agreements, logistical arrangements, and practical checklists. The resource was developed by legal practitioners and university experts from European Union countries. Available in [English](#).

- ***Tips for Service Providers Working with Women who are Deaf, Deafened, Hard of Hearing, or Deaf-Blind*** (British Columbia Institute against Family Violence et al., 2001). Available in [English](#).
- ***Aequitas- Access to Justice across Language and Culture in the EU*** (Hertog, ed.,2001). Contains guidelines for selecting and training interpreters, assessment tools, tools for practical working arrangements, good practice and ethical conduct guidelines, and a bibliography that emphasizes training. Available in [English](#).
- ***Culture Handbook*** (Family Violence Prevention Fund, 2001). Available in [English](#). For advocates and professionals who work with victims of domestic and sexual violence, this manual stresses the importance of reaching out to diverse communities to understand how different cultures are affected by gender-based violence. The group has also developed a factsheet entitled [Cultural Competency Tips](#) and a [quiz](#) to find out if services are linguistically and culturally accessible to women who speak other languages. A sample multilingual brochure, *You have a right to be free from violence in your own home* (Family Violence Prevention Fund) is available in [English](#), [Spanish](#), [Arabic](#), [Chinese](#), [Tagalog](#), [Vietnamese](#), [Russian](#), and [Korean](#).
- ***Effectively Working With Court Interpreters*** (Minnesota Judicial Branch, USA, 2008). Available in [English](#).
- ***2004 Language Assistance Plan*** (Dane County Circuit Court, Wisconsin, USA, 2004). Available in [English](#). A framework for providing timely and effective language assistance, this publication details the costs of such assistance and outlines the responsibilities of different levels of Wisconsin courts.
- ***Working with Foreign Language Interpretation in the Courtroom: A Bench Guide for Judges*** (The Supreme Court of Ohio, USA. 2007). Available in [English](#).
- ***Working with Interpreters in the Courtroom: Benchcard for Judges*** (The New York State Unified Court System, USA. 2008). Available in [English](#).

## ***Working with the court system to improve response to survivors***

### ***Why work with the court systems to improve the response to survivors?***

A court system consists of all levels of the courts, from magistrates and referees to Supreme or highest court judges, court administrators, court clerks, bailiffs, and interpreters. The court is the official forum which has the authority to administer justice following the terms of the law and procedures in the legislation of a state. A court is

charged with providing the right to an impartial hearing for both victim and accused. It has the duty to hold perpetrators of violence accountable through incarceration, fines, community service, or probation programming.

Women and girl victims of violence often do not report violent acts. They believe that courts are predisposed to ignore or dismiss their claims. They justly fear that the court system will re-victimize them and publically humiliate them. Courts should work to improve the response to survivors so that survivors will be confident that they will receive a fair hearing in court.

A strong foundation for the rule of law begins with a court system that is independent, transparent, and free of corruption. Corruption and political manipulation of the courts lead to lack of confidence in the system and reduce access to justice for everyone, including survivors of violence. Enhancing the credibility of the courts should include strategies for the judiciary, prosecutors, lawyers, and all court personnel.

### **Argentina – Supreme Court Establishes Office of Domestic Violence**

The Supreme Court of Argentina, in a Joint Programme with UNDP, UNICEF and UNIFEM (now UN Women), has established an Office on Domestic Violence (OVD). It is the first such office in the world to be created within the highest-ranking court of a country. The office serves the community, the judiciary, and the judicial staff.

A working group comprised of expert judges in family law, civil law, criminal law, and juvenile law, a forensic doctor, an administrator, and representatives from the prosecutor's office and the public defender's office met regularly for 5 years in the chambers of the Vice President of the Supreme Court of Argentina. The group created the OVD programme, the professional profile of the staff experts, and a plan for monitoring and evaluation of the OVD. The staff was selected in a public process and received a month of intensive training.

The OVD has standardized criteria for case registration and ensured timely access to justice for victims of domestic violence. A team of lawyers, medical professionals, psychologists, social workers, and administrative staff are available around the clock to help survivors report violence and to perform [risk assessments](#), obtain immediate protective remedies, and provide expert opinions and a medical report to judges and prosecutors. In the words of Justice Highton de Nolasco:

*The person who comes to the OVD will be assisted by a unit team consisting of a lawyer, a psychologist and a social worker. During the interview, a written statement is issued, all paperwork being completed for it to be a formal complaint, and a risk assessment report is drawn up. In addition, the victim—if necessary—is examined by a physician, who determines whether there are injuries, and whether photographs should be taken.*

*After the person communicates her or his story, she or he is given complete and detailed information about her or his options, whether juridical or not, related to the problem posed. Then, the victim expresses her or his will as to which course of action to pursue.*

*In those cases where the situation is extremely serious and the victim cannot leave home, she or he can count on the help of mobile squads belonging to the Ministry of Justice and Human Rights programme Victims against Violence. These squads, with a simple call from the victim, can take the person to the OVD headquarters to initiate proceedings. The Court has also signed an agreement with the Mayor of the City of Buenos Aires, so as to make available hospital services and shelters if necessary.*

*The Office has improved efficiency, as evidenced by the courts making a decision on injunctions on the same day, or the following day at the latest. This has meant a great step forward, as before establishment of the OVD, the risk report required to determine whether it was appropriate to order a remedy used to take up to 4 months, which in turn resulted in a serious—and sometimes irreparable—delay in deciding on issues of victim protection.*

*Likewise, when cases are referred to criminal courts, judges are provided with adequate documentation. According to judges, significant progress has been shown because there are no more delays in determining whether there are bodily injuries (before, if injuries were not very serious, they had healed by the time checks were made), and victims are now informed about the eventual existence of civil actions, simultaneously with criminal proceedings.*

*Cases may be submitted either to judicial or non-judicial authorities. In non-legal referrals, victims are provided with free legal advice services, psychological or psychiatric services.*

*...It is a tool for civil and criminal courts to coordinate their work and have, at the very moment victims file their claim, all necessary information to make immediate decisions.*

The Office on Domestic Violence admitted 8500 cases in the first 17 months of its existence. Justice Highton de Nolasco noted that only 40% of these cases were admitted during court hours, emphasizing the importance of night and weekend hours. A monitoring process is already in place to analyze the performance of the relevant sectors and to obtain statistical records to support policies on domestic violence.

The Supreme Court of Argentina is ensuring the sustainability of the ODV by including it in its budget. When Supreme Court Justices in the Provinces of Argentina wanted to replicate the model, the Supreme Court convened a Committee on Access to Justice with a Domestic Violence Group of representatives of provincial high courts, federal judges, and court officers who had experience in creating the first OVD. To date, 22 provinces have agreed to establish OVDs at local levels, and 3 OVDs have been opened.

The OVD has increased awareness and capacity development of judges and court staff and technical support for statistical data. Further plans include a nationwide register of

cases of domestic violence, more training for the judiciary, and awareness-raising for the people of Argentina.

Source: [Avon Global Center for Gender and Justice at Cornell Law School. Gender Justice in the Argentine Context: Justice Highton de Nolasco Shares her Views.](#)

### ***Strategies to support judicial independence***

An important starting point is the United Nations [Basic Principles on the Independence of the Judiciary](#). Adopted in 1985, the Principles envisage judges with full authority to act free from pressures and threats, adequately paid and equipped to carry out their duties. The standards offer models for lawmakers, who are encouraged to write them into their national constitutions and to enact them into law. Many countries have formally adopted the Principles and report regularly to the United Nations on their progress and problems, sometimes seeking help with legal education or the monitoring of procedures. Reform advocates can engage the [UN Special Rapporteur on the Independence of Judges and Lawyers](#) to provide input and technical assistance to reform processes.

Key measures to enhance judicial independence include:

- Reform laws that weaken judicial independence.
- Provide the court system with adequate and sustainable funding, including a sufficient wage to prevent bribery. Salary levels for new adjudicators should meet living wage standards and should increase with seniority.

**Example:** as part of the Action Plan for Judicial Reform in the Philippines, judicial salaries were increased by 100% over a 4-year period. This helped the recruitment of well-qualified candidates and reduced the number of vacancies on the bench (Asian Development Bank, 2008).

- Standardize the process and tenure of judicial appointment. According to the UN Basic Principles, persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status, except that a requirement that a candidate for judicial office must be a national of the country concerned, shall not be considered discriminatory.
- Support the creation of judicial councils to appoint and promote judges.

- Train judges on leadership techniques and access to justice issues so that they embrace the idea of being visible and active in community service. Most judicial ethics codes encourage judges to become active in their communities.
- Promote standards in the promotion and transfer of judges. For example, the UN Basic Principles indicate that:
  - The term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions, and the age of retirement shall be adequately secured by law.
  - Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists.
  - Promotion of judges, wherever such a system exists, should be based on objective factors, in particular ability, integrity, and experience.
- The United Nations also has promulgated [Basic Principles on the Role of Lawyers](#) and [Guidelines on the Role of Prosecutors](#). Similar to standards on the independence of judges, these UN guidelines outline good practices to enhance the credibility of the legal profession and the court system

### ***Strategies to eliminate corruption***

If there is a public perception of corruption in the courts, victims may not report violence or may decline to participate in a case, which often leads to charges against the perpetrator being dropped. Opportunities exist to address corruption from the onset of legal training for law students, throughout legal careers, judicial and prosecutorial selection procedures, case assignment procedures, improved transparency and communication of decisions, and well-publicized, standardized court fees (including where there are no fees, as it should be in cases of violence against women). Strategies to address corruption in the court system include:

- Draft a code of ethics and professional responsibility and standards of conduct for legal and judicial actors in the justice system. This will provide a foundation for training, monitoring, and hearing complaints on ethical matters. Codes should include specific standards which apply to cases of violence against women and girls. [internal link to UN Guidelines just above for both lawyers and prosecutors]
- Provide ethics training requirements in law schools and include a required section on ethics in bar examinations. A foundation in ethics will have a long-term positive effect upon corruption in the courts as lawyers become judges or prosecutors. Many law schools require that their students take an ethics course. For example, see this [Interview with India's Solicitor General and Chairman of the Bar Council of India](#) regarding the addition of ethical requirements to India's law school curriculum.

- Ethics courses should provide a set of principles for lawyers and judges which can be applied to real-life dilemmas. Training on professional responsibility and codes of conduct should be required for new judges and prosecutors. And, when bar exams contain an ethics component, future lawyers are required to study ethical principles.
- Support ongoing ethics training. Continuing education programmes should be required for judges, lawyers, and prosecutors to maintain their license. Court administrators should request and document the need for funding for ongoing training. A certain number of hours of continuing education on ethics should be part of the requirements for retention of professional licensure and judicial appointment.
- Support court-provided mentoring programmes for judges and prosecutors. The experience of mentors may be particularly helpful to recruit diverse judges or prosecutors, or to help new judges and prosecutors in complex cases of violence against women.
- Establish [professional prosecutorial associations](#) to promulgate standards of practice and behaviour.
- Support a programme through which new judges are required to declare their assets and the assets of immediate family members upon taking office, their assets are periodically monitored during their tenure as judge, and are monitored again at departure. An independent body should monitor these disclosures, which should be confidential if no corruption is indicated. The declaration and monitoring of assets throughout judicial careers inhibits corruption. A similar system for regular review of personal assets and income should be established for prosecutors.
- Support public access to all court decisions. In many countries, not all court decisions are published, or they may be published in abbreviated form. However, if decisions are published, judges can be held accountable for the quality and consistency of their decisions. Each court system should publish its decisions on a website. This will provide valuable information to the legal profession, to other judges, and to the public on relevant cases of jurisprudence. Court systems should incorporate appropriate standards for survivor confidentiality and safety.
- ***The Judicial Mentoring Project Handbook*** (Alameda County Bar Association and East Bay Diversity Bar Association, California, USA, 2010). Available in [English](#).

#### **Namibia – Laws and Court Decisions Available on the Internet**

Ministry of Justice officials in Namibia identified a gap in access to court decisions and pertinent laws among judges. Ministry officials also realized that government personnel

could not effectively enforce laws if they did not have access to the laws. In response, Ministry of Justice officials drafted a plan to make laws and court decisions readily available on the internet to judges, officials, lawmakers, and the public at large. The [Namibian E-Laws](#) project, launched in 2010, contains all of the country's post-Independence laws, pre-Independence laws, court decisions, High and Supreme Court decisions, and international agreements. The project is an extension of already-existing internet services, including the Namibian Courts Information System and Justice Net. Source: [Namibia Economist](#). 2010. [New website contains all Namibian laws](#).

- Ensure open courtrooms during most cases. Open courtrooms are an important indicator of a fair and transparent judicial process. In many countries, organizations such as [WATCH](#) in Minnesota, USA, monitor courtroom procedures to ensure that victims of violence receive fair and respectful treatment. In cases of violence against women, however, this must be balanced with the rights of a survivor of violence who may fear testimony in open court and the publicity which is often a result of violent cases. Closed courtrooms should be reserved for cases involving vulnerable complainants, survivors, or witnesses, including women or girls who are survivors of sexual violence. Other methods of protecting the survivor include testimony via closed circuit television and banning the presence of the media. Court hearings should in most cases be public though exceptions may be made in cases of violence against women and girls. For example, a rape case against a minor girl should be held in closed session in view of the age of the survivor. See the section on [Sexual Assault](#) in the Knowledge Module on [Legislation](#).
- Support use of an automated case management system. Automated case management systems are an effective method of removing opportunities for corruption and at the same time increasing the efficiency of the court process. Automated systems speed up the process, even out the workload of judges and prosecutors, safeguard documents, remove the opportunity to influence the assignment of a particular judge or prosecutor to a case, and create opportunities to standardize access to information and court fees where they apply, thus reducing opportunities for bribery among court administrators. Information about the status of proceedings which are in progress can be readily available through these systems.

#### **Serbia – Automated case management system**

In 2004, the Government of Serbia installed an automated case management system in its commercial court system to promote greater transparency and efficiency. Under the automated system, judges were assigned to cases randomly, litigants could follow the progress of their case online, and they were charged standard fees. These measures not only addressed transparency and fairness, they increased efficiency in the commercial courts. In 2006 alone, there was a 24% reduction in the backlog of pending cases.



Source: Commission on Legal Empowerment of the Poor and United Nations Development Program, 2008.

- Recognize that widely variable sentences for the same offense are an important source of public perceptions of corruption. Most countries have sentencing guides in legislative protocol and court systems should work to ensure that sentences are in compliance. Regular [monitoring of court decisions](#) will facilitate this.
- Support an independent body and standardized procedure for complaints. An independent and responsive complaint commission should exist for all complaints against the judiciary and other court staff. The membership of this commission should include judges, attorneys, and citizens, and its mandate of investigating charges of judicial corruption and judicial misconduct should be well-publicized. The commission should be charged with referring cases of criminal misconduct to the police. Sanctions should include the disbarment of convicted offenders. Notice of this body and its mandate should be sent to all parties to a case.

### Indonesia – Human Rights Ombudsman

Responding to years of popular frustration with corruption and inefficiency in public services and the judicial system, Indonesia partnered with the United Nations Development Programme to create the National Ombudsman Commission (NOC). The NOC is designed to both guarantee access to justice on the part of the underprivileged, and spur the Indonesian courts into living up to their obligations.

The creation of the NOC was met with considerable enthusiasm. In the three years following its inception, the NOC fielded 2,500 complaints by Indonesian citizens and the NOC processed 80 percent of these. Twenty-five percent of those named in the NOC grievances took action to adopt the Commission's recommendations. The creation of an independent human rights commission tapped into a deeply felt need on the part of Indonesians. The NOC's status as an independent government body rather than one attached to the Ministry of Justice, increased popular confidence in its impartiality and ability to represent the interests of citizens.

Challenges: Lacking enforcement power, the NOC can be sidelined by institutions which simply ignore its recommendations. The NOC's centralized, primarily urban organization is far from many of the most disadvantaged Indonesians who live in remote or rural areas.

Djojosoekarto. 2003. [The National Ombudsman Commission as the custodian and conscience system of access to justice for the underprivileged in Indonesia.](#)

### Latin America – Ombudsman Offices Act Against Violence Against Women

The Human Rights Ombudsman Office in Guatemala created a register for recording violent deaths of women and since 2003 publishes an annual report with salient statistics on the femicides.

The Ombudsman's Office in Panama monitored the implementation of the domestic violence law with assistance from the Prosecutor's Office in 2005. The monitoring revealed, among other points, that conciliation measures were being used in domestic violence cases although provisions for conciliation were not in the legislation. It also noted the cases which were dropped and the ones in which protective measures were not enforced.

The Bolivian Ombudsman's Office investigated the actions of the Family Protection Brigades, the law enforcement branch devoted to domestic violence cases, and developed a series of recommendations for Ministries and police. As a result, more resources were earmarked for the Brigades, training on domestic violence increased, and the number of female police officers increased.

Source: Economic Commission for Latin America and the Caribbean. 2009. [\*No more! The right of women to live a life free of violence in Latin America and the Caribbean\*](#)

- Support a standard rotation of judicial assignments. Judges at each level of court should be rotated at regular intervals to different subject areas, i.e., commercial court, family court, etc. Rotation of judges reduces the opportunity to bring cases before a particular judge and can reduce entrenched harmful habits, such as corruption.
- Publish an annual review of cases reported and prosecuted, and case outcomes.
- Recognize and support the role of civil society and the media. These groups can monitor the outcome of decisions and call for reforms. Both groups should have free access to court records and should disseminate information about complaint mechanisms and any complaints in process. The court system should encourage their role as monitors and disseminators of complaint procedures to the public (United Nations Development Program, 2005).
- Promote a [database](#) to coordinate information regarding perpetrators among justice system actors, including different court systems. Judges, magistrates, referees, and bail and probation staff should be able to access the criminal record of a perpetrator, pre-existing court orders including orders for protection, outstanding warrants, and information on probation or parole terms. The more information a court has about a perpetrator, the more it can assess risk and monitor a perpetrator's previous compliance, thus advancing victim safety.

### Tools on Ethics & Codes of Conduct:

- Examples of codes of ethics from many countries can be found on the American Bar Association [website](#).
- ***Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases*** (American Bar Association, 2007). Details the ethical duties of lawyers representing survivors of gender-based violence, including culturally competent representation, effective client communication, safety plans, and descriptions of survivor-centred office intake procedures and pre-and post-hearing responsibilities. Available in [English](#).
- ***Legal ethics in Vietnamese legal education system*** (ASEAN Law Association, 2002). Sample canon of legal ethics. Available in [English](#).
- ***Proposed Resolution on Training in Legal Ethics of European Lawyers*** (European Bars Federation, 2008). Available in [English](#), [Italian](#), [French](#), [German](#), and [Spanish](#).
- ***Judicial Conduct Policy Manual*** (New York State Commission on Judicial Conduct, 2011). Available in [English](#).

### Tools on Court and Court Records Automation Systems

- ***The Domestic Abuse Information Network Database*** is a Microsoft Access database programme designed for use by domestic abuse agencies. It assembles the information necessary to track and monitor domestic assault related cases in a coordinated community response to domestic violence. The database can evaluate demographic data, number and types of arrests, case processing time, case dispositions, and re-offenses, as well as analyze police, court, and offender programme records and more. Reports show trends in the system and can help to determine policy or procedural changes that might need to be made. Screens include offender and victim demographic information, law enforcement events with corresponding details on risk factors, criminal court hearings and probation actions, civil court hearings and protection orders, and participation in offenders' programmes. To order via mail, click [here](#). To order online, click [here](#).
- ***E- Justice: Piecing IT Together*** (Department of Justice and Constitutional Development, South Africa). Available in [English](#). Describes the plan to fully automate the justice sector in South Africa, including a financial administrative system, a court processing and case management system, and a records management system.

### ***Working with judges to improve the response to survivors***

Due to their respected position in society, judges should be the natural leaders in justice sector reform. However, in their rulings, judges often reflect the views of a society which tolerates violence toward women and girls. Some judges have blamed victims for the violence. Some have helped to create a culture of impunity by refusing to convict or justly sentence violent offenders.

Reforms in legislation on violence against women have led to more women coming forward and asking for justice. For example, in states where domestic violence has been defined and criminalized and orders for protection are available, requests for protection increase. In states where the definition of rape has changed from a crime of family “honor” to a sexual assault, survivors are more likely to pursue their case. Judges should put victim safety first and work to ensure that women and girl survivors of violence will be treated with courtesy, fairness, and respect at every stage of the court procedure and particularly, not discriminated against. Judges can also modify and improve court protocols and procedures to better support claims from women and girl victims of violence.

Judges can show that they prioritize victim safety by:

- Understanding that victim safety and not family reunification should be the primary goal of the justice sector.
- Issuing orders for protection immediately. Victim safety depends upon an efficient system of issuing orders for protection.
- Providing full support to victims of violence. Judges should interpret legislation on orders for protection broadly to provide a wide range of protective options for victims, including a safe place to live, restrictions upon the offender to approach the workplace or neighborhood of the victim, custody provisions that grant temporary custody of minor children to the non-violent parent, and adequate support for the victim and the children. See the section on [Domestic Violence](#) in the Knowledge Module on [Legislation](#).
- Not issuing warnings to perpetrators of violence. Judges must hold offenders accountable for acts of violence. Warnings do not send a message of zero tolerance for violence against women and girls, and can increase the risk of harm to victims.
- Not issuing orders for mediation between parties in cases of violence against women. Mediation assumes that the parties stand on equal ground for negotiation. In many cases of violence the requisite level of equal bargaining power for fair negotiations does not exist between parties.
- Refraining from placing any blame on the victim of violence. The demeanor and language of the judge conveys an important message to both perpetrator and

victim: that the court is a safe environment for petitioners and that violence will not be tolerated (Klein, 2009).

- Issuing warrants immediately whenever perpetrators fail to appear at any legal proceeding, fail to surrender firearms when ordered, or violate any court order in cases involving violence against women. Judges should facilitate a procedure that would allow warrants to be issued after business hours and on weekends.
- Ensuring that cases of violence against women receive highest priority and shorten all waiting periods. Victims of violence who experience delays are more likely to end their participation in a case. Delays are not only inconvenient. They send a message that the case is not important. Delays may place the victim in greater danger. Research shows that the risk of harm increases when women seek outside intervention. Violent offenders often try to intimidate victims into dropping the case or recanting their evidence. Defense attorneys may postpone cases in the hope that a victim will get discouraged and drop out. And, when cases are resolved in a timely manner, victims will become eligible sooner for restitution or compensation payments which increase their opportunities to be independent and to escape abuse. Judges should do all that is in their power to increase the efficiency of the court process in cases of violence against women by re-designing court dockets to expedite these cases.
- Expediting all trials and hearings, including hearings on violations of court orders or conditions of parole or probation. Many survivors end cooperation with prosecution when trials are postponed and hearings delayed. They may be avoiding a drawn out period of re-traumatization, avoiding perpetrator retaliation, or ending community disapproval.

#### **Philippines – Strategies for responding to increasing caseload**

The Supreme Court of the Philippines led an initiative to improve the judiciary's ability to respond to an increasing caseload. It adjusted court jurisdiction, increased court size, and created special courts for certain subject areas to improve efficiency. It also required the use of trials with no continuances or delays for a two-year period to eliminate a long-standing backlog of cases.

Source: Asian Development Bank. 2009. [Background Note on the Justice Sector of the Philippines](#).

- Taking claims of violence seriously and providing sanctions for perpetrators as provided by law. Many women do not report or pursue claims of violence simply because they do not think the perpetrator will be punished. Judges bear the prime responsibility for ending impunity for violence against women and girls.
- Applying sentencing guidelines uniformly. Sentences for the same offense which vary widely are an important source of public perceptions of corruption. Judges should utilize sentencing guidelines and work within these to determine the most

appropriate sentence for each case. Judges should apply sanctions which are comparable to those for non-gender-based crimes of violence.

### India – Handbook on Domestic Violence

The Handbook on Law of Domestic Violence is an attempt to provide a tool for judges towards uniform and proactive implementation of the Protection of Women from Domestic Violence Act 2005 (PWDVA) to ensure that the promise and goal of promoting and fulfilling women's human rights is upheld. The Handbook not only acts as a guide with regard to the PWDVA and collates the best practices that have emerged from domestic and international experiences, but also provides an overview of the gamut of laws, procedures, and the jurisprudence that have an impact on a case of domestic violence. Although the Handbook is intended primarily for members of the judiciary, it is also an important reference guide for legal academicians, lawyers, and relevant authorities. The Handbook has been inspired by the rich practice and framework of existing Bench Manuals intentionally but is based on the experiences of the Indian legal system and the particular needs of women facing domestic violence in India. To obtain a copy, contact: [wri.delhi@lawyerscollective.org](mailto:wri.delhi@lawyerscollective.org).

- Instructing victims and perpetrators about terms of sentences and conditions of orders for protection. Judges should inform both parties about the consequences of noncompliance.
- Incarcerating repeat offenders or high-risk offenders. Many cases of violence against women have instances of escalating violence. And, it is well-established that the most dangerous time for a victim of violence is when she leaves the abuser or seeks police or judicial assistance. Judges should take note of risk factors and rule accordingly.
- Requesting information about the perpetrator in the plea and bail and sentencing process and modifying existing court orders, terms of probation, and sentences to reflect the recurrent use of violence or threat of violence by the perpetrator. Judges should ask victims if they believe they are still at risk. Court staff should enter the modifications into a [database](#) and communicate with law enforcement as to the change.
- Utilizing [risk or lethality assessments](#) from the first bail or charging hearing and throughout the process, including plea, probation, or sentencing hearings. Judges should seek input from the victim, her family, and the community when evaluating the risk to victims. Judges must receive sufficient information to determine systemic patterns of abuse in order to best protect victims (Klein, 2009). Judges should use a [standardized risk assessment](#) to ensure consistency and best results. Judges should consider the victim's opinion of her safety as part of the risk assessment.

## USA – Domestic Violence Risk Assessment Bench Guide and Tips for Use

The Domestic Violence Risk Assessment Bench Guide is a research-based guide used by Minnesota, USA, judges at all stages of family, order for protection, civil, or criminal cases which involve domestic violence. It includes an assessment and instructions for implementing the assessment. (The assessment can also be used by police, prosecutors, and domestic violence service providers.)

**Note: The presence of these factors can indicate elevated risk of serious injury or lethality. The absence of these factors is not, however, evidence of the absence of risk of lethality.**

### ***Justice System Personnel Should Determine:***

- Does alleged perpetrator have access to a firearm, or is there a firearm in the home?
- Has the alleged perpetrator ever used or threatened to use a weapon against the victim?
- Has alleged perpetrator ever attempted to strangle or choke the victim?
- Has alleged perpetrator ever threatened to or tried to kill the victim?
- Has the physical violence increased in frequency or severity over the past year?
- Has alleged perpetrator forced the victim to have sex?
- Does alleged perpetrator try to control most or all of victim's daily activities?
- Is alleged perpetrator constantly or violently jealous?
- Has alleged perpetrator ever threatened or tried to commit suicide?
- Does the victim believe that the alleged perpetrator will re-assault or attempt to kill the victim? A "no" answer does not indicate a low level of risk, but a "yes" answer is very significant.
- Are there any pending or prior Orders for Protection, criminal, or civil cases involving this alleged perpetrator?

### ***How To Use The Domestic Violence Risk Assessment Bench Guide***

**Note that this list of risk factors is not exclusive.** The listed factors are the ones most commonly present when the risk of serious harm or death exists. Additional factors exist which assist in prediction of re-assault. Victims may face and fear other risks such as homelessness, poverty, criminal charges, and loss of children or family supports.

**Obtain information regarding these factors through all appropriate and available sources.** Potential sources include police, victim witness staff, prosecutors, defense attorneys, court administrators, bail evaluators, pre-sentence investigators, probation, custody evaluators, parties, and attorneys.

**Communicate to practitioners that you expect that complete and timely information on these factors will be provided to the court.** This ensures that risk

information is both sought for and provided to the court at each stage of the process and that risk assessment processes are institutionalized.

**Review report forms and practices of others in the legal system to ensure that the risk assessment is as comprehensive as possible.**

**Expect consistent and [coordinated responses](#) to domestic violence.** Communities whose practitioners enforce court orders, work in concert to hold alleged perpetrators accountable, and provide support to victims are the most successful in preventing serious injuries and domestic homicides.

**Do not elicit safety or risk information from victims in open court.** Safety concerns can affect the victim's ability to provide accurate information in open court. Soliciting information from victims in a private setting (by someone other than the judge) improves the accuracy of information and also serves as an opportunity to provide information and resources to the victim.

**Provide victims information on risk assessment factors and the option of consulting with confidential advocates.** Information and access to advocates improves victim safety, the quality of victims' risk assessments and, as a result, the court's own risk assessments.

**Remember that the level and type of risk can change over time.** The most dangerous time period is the days to months after the alleged perpetrator discovers that the victim might attempt to separate from the alleged perpetrator or to terminate the relationship, or has disclosed or is attempting to disclose the abuse to others, especially in the legal system.

⇒ See the Resources on the National Judicial Institute on Domestic Violence [website](#).

- Studying plea or pre-trial release conditions and sentence requests with victim safety in mind, and reject all that may compromise victim safety and that do not provide accountability for the perpetrator. For example, common conditions of pre-trial release may include prohibiting the defendant from communicating in any way with the victim and from possessing a firearm (Praxis International, 2010). Common sentence requests such as anger management classes do not provide safety for the victim because they do not address the underlying issues of power and control that are the root cause of domestic violence (Praxis International, 2010).
- Ensuring that intervention programmes or other community service programmes to which offenders are referred meet good practice standards. For example, see [Promising Practices for Batterer's Intervention Programmes](#) and guidance on [perpetrator programmes](#).



- Conducting compliance reviews as a way to supervise the conduct of violent offenders, including those who may be on probation or in treatment programmes. Regular scrutiny of offender conduct can work to prevent re-occurrence. Compliance reviews are also essential in court-ordered programmes such as sex offender treatment programmes, drug or alcohol treatment programmes, and batterer intervention programmes to make the perpetrator accountable for fulfilling the requirements of the programme
- Considering evidence of sexual assault in cases of violence against women when determining the level of risk to victims, protective orders, plea and bail arrangements, and sentencing, even if the crime of sexual assault was not prosecuted as part of a domestic abuse case. Research suggests that sexual abuse is a common element of domestic violence cases although it is underreported by victims (Klein, 2009).
- Not penalizing victims who will not participate in a criminal case. Victims know best what they need to do to stay safe and to heal. Judges should remain open to [absent-victim prosecution strategies](#), or cases that proceed without testimony from a victim or survivor. Judges should also be aware that the lack of [court room security procedures](#) may also impact a victim's willingness to testify.
- Sanctioning violations of court orders, parole terms, or probation conditions swiftly and consistently.
- Requiring that the prosecutor provide evidence that one party is the [predominant aggressor](#) in cases of dual arrest. Otherwise, victims will suffer undeserved consequences, including jail time, and the possible loss of custody or compensation. Victims who are arrested and charged after a domestic violence incident are far less likely to report violence again and more likely to remain in a dangerous situation.
- Allowing domestic violence survivors who are convicted of crimes to have parole release decisions made with appropriate weight given to their confinement record and actual public safety risk; and allowing domestic violence survivors who are convicted of crimes to earn merit time credits and temporary work release privileges. Considering sentencing domestic violence survivors who acted to protect themselves to alternative programs instead of prison. (Avon Global Center for Women and Justice at Cornell Law School and the Women in Prison Project of the Correctional Association of New York, 2011).
- Offering flexibility in court date scheduling. Judges should consider issues victims might have with work or child care needs and travel expenses.
- [Ensuring compliance with evidentiary rules](#), victim's rights legislation, and protective measures such as rape shield laws.

- Limiting court procedures that may intimidate victims such as depositions, which are information-seeking sessions where a victim may be aggressively questioned by the defense attorney, and evidentiary hearings, which examine the charges in a formal setting. These procedures may be used as tactics to discourage a victim from pursuing the case.
- Minimizing the necessity for victims to appear in court. Repeatedly recounting incidents of abuse is traumatizing for the survivor. Victims who have to return to court repeatedly likely will be unduly burdened and may lose income, lose their job, have trouble with transport and child care, etc. Defense lawyers may employ a strategy of many motions requiring court appearances in the hope that the victim will end her participation. Judges should be aware that a victim's economic stability may be adversely affected by repeated court hearings. Also, abusers may limit women's access to court or re-victimize her upon each visit to court.
- Allowing [victim advocates](#) to accompany victims to all hearings.
- Ensuring that victim's contact information remains confidential. Provide alternatives for the victim to receive court notices, such as through her attorney or a woman's organization.
- Protecting privileged communications from victim counseling sessions.
- Utilizing [interpreter services](#) when necessary for victims at all court processes.
- Awarding custody to survivors of intimate partner violence in cases of domestic or family violence. Visitation should be awarded to a parent who committed domestic violence only if the court finds that adequate provision for the safety of both the child and the parent who is a victim of domestic violence can be made. Justice system personnel should be aware that visitation schedules often increase opportunities to stalk, manipulate, or intimidate victims. Courts should consider past incidents of domestic violence when awarding visitation.
- Applying international human rights standards to cases in domestic courts.

### Tools for Judges

- ***Checklist for Domestic Application of International Law*** (Avon Global Center for Women and Justice). Available in [English](#).
- ***Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*** (2011) provides an example of a binding instrument that prohibits mandatory alternative dispute resolution processes, including mediation and conciliation (Art.48). Available in [English](#) and [French](#).

- ***The St. Paul Blueprint for Safety*** (Praxis International, 2010). A comprehensive plan for the judiciary, law enforcement, and service providers to respond to domestic violence in any country. Available in [English](#).
- ***Training Manual on Combating Violence against Women*** (Appelt, Kaselitz and Logar, eds., (2000). provides information on myths and realities of violence against women, training objectives, methods, and teaching aids, and specific modules for [judicial professionals](#) (among others) including [handouts](#). Available in [English](#).
- ***The Toolkit to End Violence against Women*** (National Advisory Council on Violence Against Women, 2001). USA. Contains many strategies for judges, prosecutors, and other legal system professionals to improve their response to violence against women. Available in [English](#).
- ***Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice: Resource Manual*** (International Centre for Criminal Law Reform and Criminal Justice Policy Canada, 1999). Comprehensive strategies for responses to violence against women. [English](#).
- ***Guidelines for Practicing Gender Neutral Courtroom Procedures*** (The Gender Bias Reform Implementation Committee, 2004). [English](#).
- ***Pretrial Innovations for Domestic Violence Offenders and Victims: Lessons from the Judicial Oversight Initiative*** (US Department of Justice Office of Justice Programs, 2007). Contains specific guidance for restructuring courts to promote victim safety and offender accountability in domestic violence cases. Available in [English](#).
- ***Guía de Criterios de Actuación Judicial Frente a la Violencia de Género*** (Consejo General Del Poder Judicial, 2008) A resource for judicial professionals in Spain, it provides information on rights of survivors and judicial remedies, among other issues. Available in [Spanish](#).
- ***Domestic Violence and the Courtroom: Understanding the Problem, Knowing the Victim*** (American Judges Association) Available in English.
- ***Improving the Judicial Response to Domestic Violence in the Courtroom*** (The Advocates for Human Rights, 2003). Available in [English](#) and Russian (attached).
- ***Civil Protection Orders: A Guide for Improving Practice*** (National Council of Juvenile and Family Court Judges, USA, 2010). Available in English.

***Judges should modify court protocols, policies, and processes to support women and girl victims of violence by:***

- Providing simplified, free-of-charge reporting procedures and specially-trained female court employees who exhibit a respectful demeanor. This will have a direct impact upon the number of victims who will apply for justice and who will continue to work with prosecutors to pursue crimes of violence.
- Simplifying the procedures for accessing their courts. Rules for filing should be written in plain language and in as many languages as necessary.
- Working with prosecutors and law enforcement to develop clear, written [protocols](#) with detailed best practice procedures for handling cases of violence against women and girls.
- Implement a [specialized docket](#) for cases of violence against women.
- Mitigating the harmful effects of a forensic system. Many victims of violence are required to obtain a forensic certificate from a medical professional as evidence of their injuries. The medical practitioner is charged with collecting, documenting, and preserving evidence of violence, taking a history of the assault, and providing an expert opinion as to the cause of the injuries, while at the same time providing the victim with necessary care and treatment. However, forensic doctors are often difficult and expensive to access, and can be hostile to victims of domestic and sexual violence. For many victims, the forensic examination is experienced as another type of assault, and the certificate requirement poses an insurmountable barrier to justice. This type of evidence should not be necessary to pursue a case, but should be made available for those who choose to access it. If possible, forensic doctors should be present at the initial appearance of the victim, along with police and the victim advocates, thus limiting the number of times she must repeat her account. Strategies to improve the forensic system's response to survivors include:
  - Abolishing the requirement of a police referral to a forensic examiner. This is often at additional cost to the victim and may cause delays which can result in evidence degradation.
  - Providing female forensic examiners trained to provide gentle and compassionate examinations.
  - Enforcing standardized protocols to create uniform practice and updated procedures among jurisdictions.
  - Preparing standardized protocols for examination of young girls.
  - Ensuring that examination rooms are comfortable and private.
  - Ensuring priority in triage systems so that prompt examination and treatment prevents degradation of evidence.

- Providing forensic exams only when consent is given and is not conditional to police reports. Consent should be requested for each separate procedure.
- Providing victims with explanations of necessary procedures in their own language or with assisted communication prior to the actual procedures.
- Providing up-to-date tools for gathering evidence.
- Using “early evidence kits” (a mouth swab and a sterile container for a urine sample) so that a victim can take liquids or food and use the bathroom without contaminating the evidence. This is particularly important if delays before the more thorough exam are common.
- Providing proper storage of evidence so that the victim may decide to report at a later date with no fear that evidence has been destroyed.
- Educating victims about the importance of prompt treatment for sexually-transmitted diseases.
- Providing free-of-charge testing for HIV and follow-up care.
- Offering free-of-charge prophylaxis for pregnancy.
- Ensuring that all services, tests, and prescriptions are free-of-charge.
- Providing victims with supportive care, including counseling and court support services, like that provided in [Thuthuzela Care Centres](#).
- Offering victims referral information for social services and follow-up care when care centres do not exist.
- Providing victims with advocates from women’s NGOs who will provide safety plans and follow-up support.
- Ensuring that forensic practitioners understand the dynamics of sexual assault and are not judgmental with regard to the victim’s clothing or whereabouts at the time of the assault.
- Ensure that forensic practitioners receive training on evidence techniques involving DNA collection and how to protect the chain of evidence from tampering.
- Providing forensic practitioners with training on differences between stranger and known-assailant sexual assaults, and how these impact the gathering and documentation of physical evidence.
- Providing forensic practitioners with legal knowledge and prosecution techniques to better link exams with possible prosecutions; for example, documenting external injuries is important in predicting a prosecution (Kelly, 2005).
- Using forensic nurses or other qualified personnel to extend the reach of forensic practitioners. In many countries, women seek private forensic exams even though free-of-charge public examiners exist, due to the fact that forensic doctors are extremely scarce (Pan American Health Organization, 2003).
- Routinely educating other medical professionals on competent and sensitive forensic examination techniques for times when specially-trained forensic examiners are unavailable.
- For more on forensic systems, see the Module on Health.

### Central America – Study on victim choice of medico-legal service providers

A 2003 study tracked the reasons victims of sexual violence accessed particular service providers found that most victims (36.5%) chose providers closest to their homes. The second most important criteria for choice (31.5%) was the specialized service provided. Source: Pan American Health Organization, [Situation Analysis of medico-legal and health services for victims of sexual violence in Central America, San Jose, Costa Rica. 2003.](#)

- Providing clear guidance for and close supervision of court administrators. Court administrators include court clerks, administrative staff, bailiffs, and interpreters. Court administrators play an important role as the public face of the judicial system and the initial contact for members of the public. Judges should consider their administrative staff as key partners in promoting a fair, impartial, and accessible judicial system. Court staff should not receive bribes for making court dates or expediting proceedings. Judges should take part in drafting clear standards and policies for court administrators to use in the exercise of their duties, and judges should ensure that their staff is well-trained to execute these standards. Judges should monitor the actions of their staff to guard against corruption. All court policies should be streamlined with the goal of providing easy and non-threatening access to justice for claimants who approach the court system. Judges should ensure that court administrative staff understands violence against women and implications for the survivor and provides helpful information to all members of the public in a courteous manner regardless of the survivor's race/ethnicity, language/literacy abilities, sexual orientation or any other characteristics.
- Hiring female administrative staff in all court locations. Judges should ensure that trained female administrative staff is always available to take complaints involving domestic violence, sex harassment, and sexual assault. Many women are reluctant to speak with male staff about these matters.
- Including more women in their ranks at all levels of the judiciary. Judges can promote the idea of women judges at law schools and bar associations. Judges should publicize their acceptance of the idea of female colleagues.
- Implement and monitor a system which keeps [data](#) on victim contact information secure. Only authorized court personnel should have access to this data.
- Design a courtroom security system that has victim safety as its cornerstone. When victims know that courtrooms are secure, they will feel safe enough to risk confrontation with the perpetrator in a court of law. Judges can:
  - Provide separate waiting rooms with bathroom facilities for victims that are staffed by law enforcement personnel.
  - Provide escorts for victims and witnesses as they enter and leave the building.

- Provide weapon detector systems or procedures as the public enters the building.
- Set up courtrooms with victim safety in mind. There should be adequate space between parties, multiple exits, and bailiffs on duty for every hearing.
- Develop guidelines for an immediate response to violence or threats of violence. These guidelines should incorporate emergency evacuation procedures, a lockdown of the building, sequestering victims, witnesses, and juries, and the detention of violent offenders.
- Train all staff on emergency response procedures. Update the training on a regular basis.
- Inform staff that strict adherence to security procedures is essential to their employment.
- Order victim and witness protection.
- Provide swift and appropriate consequences for acts or threats of courtroom violence (National Advisory Council on Violence Against Women and the Violence Against Women Office, 2001).

#### Tools:

- ***Emergency Response Plan*** (Supreme Court of Arkansas: Administrative Office of the Courts) establishes policies and procedures for fire, weather, earthquakes, major medical emergencies, bomb threats, active shooter, and hostage situations in court buildings and contains a template adaptable for use in any country. Available in [English](#).
- ***Effective Interventions in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice (The Greenbook)*** (National Council of Juvenile and Family Court Judges Family Violence Department, 1999). Available in [English](#).
- ***State of New Jersey Domestic Violence Procedures Manual*** (Supreme Court of New Jersey and New Jersey Attorney General, 2008). Procedural guidance for law enforcement, judges, and judiciary staff. Includes filing procedures for nights and weekends, court procedures for all levels of the judiciary and court staff, service of process requirements, and examples of forms in English and Spanish, among other information. Available in [English](#).
- ***Training Manual on Gender Sensitivity and CEDAW*** (Ateneo Human Rights Center, 2007). Developed for the Philippine court system, it also serves as a reference tool to promote rights-based decisions. The Philippine Judicial Academy uses it in its training programme for court personnel. Available in [English](#).
- [Avon Global Center for Women and Justice](#). The Avon Global Center works with judges, legal practitioners, governments, and civil society advocates around the

world to advance access to justice and end gender-based violence. The Center's gender-justice initiatives include: 1) providing free legal research assistance to judges worldwide; 2) undertaking in-depth practice-oriented projects, which may be developed with judges; 3) maintains an online database of case law and other resources focused on gender justice; and 4) hosts an annual Women & Justice conference. To access the legal resources collection, please click [here](#). To request assistance for legal research or another project, please click [here](#).

- ***International Courts: The Judicial Experience*** (Avon Global Center 2010 Women and Justice Conference). See the [Video](#).
- [The International Association of Women Judges](#) ([Spanish](#)) works to increase women's access to courts and to increase the number of women judges at all levels around the world. It conducts judicial trainings and issues a semi-annual newsletter in [English](#), [French](#), and [Spanish](#). Members may participate in a [Message Board](#) to discuss topics of interest and interact with colleagues.

#### Tools for Forensic Professionals:

- ***Guidelines for Medico-legal Care for Victims of Sexual Violence*** (World Health Organization, 2003); see "Forensic Specimens" (pp. 57-63). Available in [English](#).
- ***A National Protocol for Sexual Assault Medical Forensic Examinations: Adults/Adolescents*** (United States Department of Justice Office on Violence Against Women, 2004). Available in [English](#).
- ***California Medical Protocol for Examination of Sexual Assault and Child Sexual Abuse Victims*** (Office of Criminal Justice Planning, California, USA, 2001). [English](#).
- ***Social Acquaintance Rape from Crime Classification Manual : A Standard System for Investigating and Classifying Violent Crime*** (Douglas et al., 2006). Available in [English](#).
- ***Successfully Investigating Acquaintance Sexual Assault: A National Training Manual for Law Enforcement*** (The National Center for Women and Policing, 2001). Available in [English](#).
- ***Good Practice in Medical Responses to Recently Reported Rape, Especially Forensic Examinations*** (Kelly and Regan, 2003). [English](#).
- ***Guidelines for Medico-Legal Care of Victims of Sexual Violence*** (World Health Organization, 2003). [English](#).



- ***Sexual Assault Nurse Examiner Programmes: Improving the Community Response to Sexual Assault Victims*** (Littel, 2001). [English](#).
- ***Recent Rape/Sexual Assault: National Guidelines on Referral and Forensic Clinical Examination in Ireland*** (National SATU Guidelines Development Group, 2010). [English](#).

## ***Working with prosecutors to improve their response to survivors***

### ***Strategies for prosecutors to improve their response to survivors***

Prosecutors, or State's Attorneys, represent the authority of the state in bringing a case against an accused perpetrator of violence. Prosecutors are responsible for gathering evidence, for charging cases, and for establishing all of the elements required by law to prove the case in front of a judge or jury. These responsibilities provide an opportunity for prosecutor contact with all participants in the criminal justice system: victims/survivors, witnesses, police, judges, advocates, juries, and probation/parole staff. Thus, prosecutors are well-positioned to provide expertise and leadership in addressing violence against women and girls (National Advisory Council on Violence Against Women, 2001).

Prosecutors should have the responsibility for bringing charges and trying cases of violence against women and girls. The state's duty to protect its citizens is enshrined in many constitutions and human rights instruments. If a survivor must pursue her case in the criminal justice system, she is likely to abandon her claim due to fear of the consequences of a public prosecution, including social stigma, family disapproval, fear of her abuser's retaliation, fear of the legal process, and a lack of information about the justice system.

Prosecutors should have the responsibility to pursue a case regardless of the level of injury or the type of violence. State prosecution can remove the shame often felt by survivors, contribute to their recovery, act as a potential deterrent to offenders, and may provide an incentive for other survivors to come forward (United Nations, 2009).

The three goals of prosecution should be: (1) to protect the survivor; (2) to hold the defendant accountable for the violence, thus deterring him from further violent acts; and (3) to communicate a strong message of zero tolerance for violence against women and girls to the community. Overarching strategies to support these goals include:

- Establishing and implementing protocols to prioritize survivor safety;
- Incorporating knowledge of gender-based violence into policies and protocols; and
- Thoroughly investigating and effectively prosecuting acts of violence against women and girls.

Justice sector programmes focused on prosecutors can encourage prosecutors to prioritize survivor safety by:

- Training prosecution staff on [effective investigation and prosecution strategies and approaches that support victim safety](#).
- Investigating the level of [risk](#) to each survivor of violence using standardized [danger assessment protocols](#).
- Training prosecution staff on harassment and [stalking](#) of survivors of violence.
- Seeking criminal [no contact orders](#) or domestic abuse no contact orders.

### What is a no-contact order?

During the pendency of a criminal case, the court should have the authority to issue a no contact order or a domestic abuse no contact order, which is different from a civil order for protection. A no contact order directs the defendant not to contact the victim in any way, by telephone, email, in person, at the victim's place of employment, home, school, or in the community during the pendency of the criminal proceeding. The no contact order should remain in effect at least until the criminal case is concluded. A violation of the no contact order should also be a criminal offense.

- Allowing victim agency in certain cases of domestic violence. Victim agency allows a victim to make the decision on whether or not the case should be pursued. It is usually limited to cases of less severe injury from domestic violence. Victim agency prioritizes a victim's own assessment of how her family's needs will be met and how they will best be kept safe.
- Recognizing that victim recantation and refusal to cooperate are often the outcome of threats by the abuser, and prosecutors should not react by threatening to prosecute or by prosecuting the victim.
- Utilizing [protective measures to increase survivor safety](#), including alternative means of testifying such as video testifying and gag orders. A gag order in this context is an order from a judge that the lawyers and/or the media not disclose the survivor's identity or other identifiable facts about the survivor and the case.
- Considering [victim impact statements](#) in all cases of violence against women and girls.
- Informing survivors of [civil remedies](#) which are available, such as protective orders, when prosecutors decline pursue domestic violence cases. And, in some criminal systems, the survivor can pursue criminal remedies privately, particularly when the prosecution has dropped or lost the case.

- Providing alternatives to increase outreach and [assistance to victims in rural communities](#). Rural communities often experience a lack of victim advocate services, information about victim services, shelters, public transportation, and communication services such as mail, telephone, or email. Prosecutor staffing is likely to be limited. The community may be geographically isolated and economically challenged. In sparsely-populated areas it can be more difficult for victims of violence to report the violence due to the lack of anonymity or confidentiality. Victims may fear traveling to a city to receive assistance. Some outreach practices which have been shown to be effective in improving assistance to victims in rural areas include:
  - [Volunteer victim advocates](#).
  - [College student advocates](#).
  - [Traveling victim advocates](#).
  - Victim access to [telephone hotline for their country](#) for information and referrals.
  - Victim access to a [secure website](#) for information and referrals.
  - [Hairdressers as confidential sources of information](#).
  - [General informational websites](#).
  - Creative methods of publicizing victim advocate programmes, such as fliers in utility bills, or posting fliers in rural areas with tear-off contact information.
  - Information for victims of violence in programmes with which they may regularly have contact, such as visiting health programmes or pre-school programmes.
  - Transportation services, discount gas cards, discounted or free hotel accommodation, or child care funds.
  - Secure local meeting places such as hospitals or schools for pre-court meetings with survivors and witnesses.
  - Incorporating [victim advocate](#) services at mobile courts.
- Obtaining adequate funding for comprehensive victim services in rural prosecutor's offices. Funds may be lacking to maintain adequate and fully-trained staff, to create specialized units, and to include the full range of services which are necessary to serve survivors of violence. Adequate funds are necessary for interpreter services, DNA testing, investigation services, and social services.
- Seeking nontraditional resources for rural prosecutor offices, such as in-kind donations of office space, computers, furniture, and supplies.
- Utilizing nontraditional resources such as municipal or county boards, local corporations, hospitals, or faith-based organizations. *Adapted from:* Office of Victims of Crime, A Victim/Witness Guide for Rural Prosecutors, [Overcoming Geographical Isolation](#).

### **Tools for Working with Prosecutors:**

- ***Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors*** (The International Association of Prosecutors, 1999). Available in [English](#).
- ***Guidelines on the Role of Prosecutors*** (Office of the United Nations High Commissioner on Human Rights, 1990). [English](#).
- ***Your meeting with Crown Prosecutor's Service- Special Measures Guidance to Assist Vulnerable and Intimidated Witnesses*** (United Kingdom Crown Prosecutor's Service). An easy-to-understand leaflet for survivors. Available in [English](#).
- ***Use of Expert Witness Testimony in the Prosecution of Domestic Violence Cases*** (United Kingdom Crown Prosecutor's Service, 2004), details how experts can be used to explain the dynamics of domestic violence to judge and jury and how the dynamics affect victim behaviour. Available in [English](#).
- ***Model Policy for Prosecutors and Judges on Imposing, Modifying, and Lifting Criminal No Contact Orders*** (Long et. al., 2010). This publication encourages prosecutors and judges to develop and implement a process to gather timely and accurate information about risk and lethality, a particular victim's wishes and motivations, and possible negative consequences in order to best determine when to impose or maintain a no contact order in the face of a victim's opposition. Available in [English](#).
- ***Prosecutor Protocol on Domestic Violence in Albania*** (The Women's Legal Rights Initiative, 2006). Available in [English](#).
- ***Code of Ethics for Public Prosecutors and Deputy Public Prosecutors*** (Republic of Croatia, 2008). Available in English and [Croatian](#).

***Justice sector programmes can work with prosecutors to incorporate knowledge of gender-based violence into policies and protocols by:***

- Increasing prosecutors' knowledge of how the [nature and impact of gender-based violence](#) may affect a survivor's willingness to testify due to:
  - The fear of retaliation by a perpetrator against a survivor, her family, or friends, especially when and if a perpetrator is released on bail;
  - Negative reactions from family or community to women who plan to testify;
  - A survivor's unwillingness to re-traumatize herself by testifying;
  - A survivor's fear of not being believed;
  - A survivor's fear of being blamed for the violence due to her actions or to the perpetrator's social standing;

- A survivor's lack of access to protective measures such as civil orders for protection, witness protection programmes, and courtroom safety measures; and
  - A survivor's and her children's economic dependency on the perpetrator.
- Implementing [pro-prosecution policies](#) in cases of violence against women and girls. A pro-prosecution policy means that prosecution is likely but not mandatory. It ensures that the prosecution staff will give the issue serious attention (United Nations Department of Economic and Social Affairs and United Nations Division for the Advancement of Women, 2010).
  - Training prosecutors on protocols for [evidence-based prosecutions](#), which allow for prosecution of offenders in the absence of survivors. Prosecutors should plan to use corroborating evidence such as physical evidence, medical records, expert witnesses, and other trial strategies to strengthen cases in which a victim is unavailable to testify. 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. Prosecutors who pursue difficult cases promote the message that gender-based violence will not be tolerated.
    - Avoiding delays in cases of violence against women and girls. Delays may cause survivors to end their participation in the case due to threats or other issues. Delays may also enable offenders to retaliate against survivors.
    - Reducing rates of dismissals and dropped charges for cases of violence.
    - Utilizing danger or [risk assessment standards](#) in setting bail, reaching plea agreements, and making sentencing recommendations.
    - Training prosecutors on non-stranger sexual assault cases: that these are legitimate assaults or rapes with real victims and culpable rapists although they knew each other and may be married or living together. Prosecutors should present the case as an aggravated assault by a trusted person. Prosecutors should support a victim's claim of rape or assault by documenting:
      - All forms of resistance including words used to attempt dissuasion
      - Means of submission
      - Context or environment-related fears; for example, if the victim is also a victim of domestic abuse, or if children were present nearby.
      - Constraints felt by victim
      - Repeat assaults

### Tools for Working with Prosecutors:

- ***Policy for Prosecuting Domestic Violence Cases*** (United Kingdom Crown Prosecutor's Service, 2009). Available in [English](#) and [Welsh](#).

- **Guidance on Prosecuting Cases of Domestic Violence** (United Kingdom Crown Prosecutor's Service). [English](#).
- **The Code of Practice for Victims of Crime** (United Kingdom Criminal Justice System, 2004). [English](#).
- **The Link® for Prosecutors** (Phillips, 2009). How to use the link between violence against people and violence to animals in court. [English](#).
- **Policy for Prosecuting Cases of Rape** (United Kingdom Crown Prosecutor Service, 2009). Available in [English](#) and [Welsh](#).
- **Prosecutor Sexual Assault Protocol: A Resource Guide for Drafting or Revising Tribal Prosecutor Protocols on Responding to Sexual Assault (Including a Model Sexual Assault Protocol)** (White et. al., 2008). Although this tool was drafted specifically for use by tribal prosecutors, its protocol can be widely applied to sexual violence cases in any location. [English](#).
- **National Guidelines for Prosecutors in Sexual Offense Cases** (South Africa Department of Justice). [English](#).
- **Training Manual for Prosecutors on Confronting Human Trafficking** (United Nations Office on Drugs and Crime and Government of India, 2008). [English](#).
- **Toolkit to Combat Trafficking in Persons** (United Nations Office on Drugs and Crime, 2008). Guidelines and promising practices for judges, prosecutors, service providers, and policymakers on issues including protecting and assisting victims. [English](#), [Arabic](#), [Chinese](#), [French](#), [Russian](#), and [Spanish](#). To download individual Tools, see the [Online Toolkit](#).
- **Trafficking Women and Children for Sexual Exploitation: Handbook for Law Enforcement Agencies in India** (Nair, 2007) [English](#), [Hindi](#). Section 5 contains a list of “dos and don'ts” for the prosecution of trafficking crimes. The Appendices include a checklist of elements of the law, possible evidence, and good practice models.
- **Training Manual for Judges and Prosecutors on Combating Human Trafficking – Moldova** (Vidaicu and Dolea, 2009). [Romanian](#). Addresses substantive and procedural law, including investigating and prosecuting trafficking cases with international cooperation.

***In cases of intimate partner violence prosecutors can better support victims by:***

- Understanding the [dynamics of domestic violence](#) and how these cases differ from other cases of sexual or physical assault.

- Recognizing the often weak rates of success for [batterer intervention and other offender programmes](#) such as alcohol treatment or anger management programmes, and evaluating the evidence-base of good practice in these programme areas.
- Responding to domestic violence crimes in ways that put the safety of the victim first and are not dependent upon her subsequent participation in court.
  - Using all available [sources of evidence](#) that support charges independent of a victim's direct testimony, 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 neighbors, friends, or family members present during instances of violence; emergency call tapes; email, voicemail or text communications; prior arrests and convictions; medical records; and family court files.
  - Seeking charges stemming from a defendant's actions after police arrival on the scene, witness tampering from jail, and violations of pretrial release conditions. By pursuing a broad range of charges, prosecutors can lessen the reliance on victim testimony and possibly expand the crimes to be charged, for example, to include strangulation or stalking. Prosecutors should consider all charges that could result from a patterned use of intimidation, coercion, and violence and which will result in a disposition that will enhance the safety of the victim and hold the offender accountable. Examples include: interference with an emergency call, disorderly conduct, terroristic threats, criminal damage to property, sexual assault, and animal abuse. For an audiotape of a Minnesota, USA prosecutor discussing jail phone calls which violate no contact orders and audiotapes of defendants attempting to manipulate victims from jail, click [here](#).
  - Protecting victims from retaliation because of their participation in prosecution.
  - Emphasizing at every opportunity that it is the [prosecutor's decision](#) on behalf of the community and the state to pursue charges, and not the victim's decision.
- Setting priorities which give precedence to cases which demonstrate the greatest risk to victims and their families. Prosecutors should:
  - Use a standardized risk and [danger assessment](#) in domestic violence cases and consider:
    - Type, severity, and frequency of assault
    - Date of most recent assault
    - Serious injury in this or prior assaults
    - History and nature of past violence towards this victim and others
    - Current or recent separation of abuser and victim
    - Strangulation attempts
    - Stalking behaviour

- Threats to harm victim or children
- Threats of homicide or suicide
- Intimidation of victim if she seeks help
- Jealous or controlling behaviours
- Sexual aggression and coercion
- Animal abuse
- Criminal history
- Access to firearms
- Current or past orders for protection
- Alcohol or drug use
- Mental health concerns
- Evaluate the context of the violence between the parties by asking :
  - Is there a pattern of ongoing intimidation, coercion, and violence?
  - Who is perpetrating such a pattern, and against whom?
  - What is the severity of the violence?
  - Who has been injured and how?
  - Who is afraid and in what ways? (Include non-physical fears such as losing children, home, job, etc.)
  - What kinds of threats or coercion have been used to dissuade the victim from participating in the prosecution?
  - Who is most vulnerable to ongoing threats and coercion?
- Evaluate the situation regarding children by asking:
  - Has the abuser harmed the children? In what ways?
  - Has the abuser threatened to harm the children? In what ways?
  - What is the status of any family or other court case?
  - Does the victim fear that the abuser will take the children in retaliation for the cooperation with prosecutors?
  - Was the victim assaulted during pregnancy or shortly after giving birth? (Praxis International, 2010).

### **USA – District Attorneys Association Policy Positions on Domestic Violence**

The United States National District Attorneys Association has developed a policy on prosecuting domestic violence cases. The Association recognized that partner violence, because of the intimate relationships involved, is unlike other types of victim-assailant cases. Victims may be economically dependent upon the abuser and share children and a residence with the abuser. The Association recognized that victims know what they can do to maintain their safety as well as the safety of their children or other family members. The Association noted that victims may be hostile to police and prosecutors, may not want to participate in court processes, and may recant statements about the abuse. Victims may have had other unsatisfactory or even hostile experiences with the justice sector, and they may be ashamed or afraid to make the violence public. They may fear the loss of their children, loss of economic support, and family disapproval.

The Association acknowledged the tension between these factors and the interest of the state in robust prosecution of the offender. The policy states that “As a result of the



philosophical differences between a victim of domestic violence and prosecutor handling such cases, it is imperative that prosecutors devise methods to most practicably address the goals of all parties involved in cases of domestic violence and to eliminate as many of the conflicts as possible.”

The policy prioritizes prosecutor education and support of the victim. Prosecutors are advised to obtain relevant information about the incident and history of abuse as soon as possible, establish a rapport with victims, and maintain regular contact with victims. Prosecutors should provide victims with information on shelters, victim/witness programmes, NGO victim advocate programmes, medical services, and legal assistance services. Victim input should be respectfully requested.

The policy advises against written official policies to cover all domestic violence cases, and states: “Prosecutorial discretion and specialized training as applied to the facts of individual cases are the best tools to address domestic violence...Prosecutors are encouraged to use prosecutorial discretion to resolve cases of domestic violence and to provide for both victims’ safety and abusers’ accountability.”

The policy states that: “Prosecutors should treat all cases involving domestic violence in such a manner that:

1. Victims understand that their safety is the paramount concern of law enforcement and the prosecutor;
2. Abusers and potential abusers understand that they will be held accountable for such acts; and
3. The community is acutely aware of the importance and serious ramifications of these cases....”

Source: National District Attorneys Association. 2004. [National District Attorneys Association Policy Positions on Domestic Violence](#).

### **USA – Prosecutor Policy in a Coordinated Response to Domestic Violence**

The US city of St. Paul, Minnesota, received legislative funding to create a “blueprint” (a highly detailed, foundational document) on building an effective criminal justice response to domestic violence. The Blueprint for Safety sets out goals and methods to enforce Minnesota criminal laws on domestic violence and maximize successful prosecutions for perpetrators. The Blueprint takes note of additional factors involved in prosecutorial discretion to charge domestic violence cases, including (1) the history and context of violence between the defendant and the victim, (2) the seriousness of injuries and/or the level of fear expressed by the victim, (3) the ways in which children have been used as part of a pattern of abuse and violence, and (4) the impact of no intervention or less aggressive intervention on potential lethality.

The Blueprint states that prosecutors can deter further abuse by consistently “...issuing the highest level charge possible within the framework of ethical practice and the goals of victim safety and offender accountability and rehabilitation.” Prosecutors should:

- Engage in dialogue with the victim and avoid treating her simply as an information source.
- Act in ways that prioritize safety and respect a victim's precarious circumstances and fear of the offender's aggression.
- Request a no-contact order.

Source: Praxis International. 2010. [The Blueprint for Safety](#).

### **USA – A conversation with a prosecutor about victim requests to lift no contact orders in domestic violence cases**

*"In Milwaukee, Wisconsin, USA, no contact orders are a part of almost all criminal cases from the first initial court appearance following charging. Usually, the defendant will make his first court appearance in front of a court commissioner. The prosecution/state will make a blanket request for a no contact orders in almost every case, as a non-monetary condition of bail. The court will almost always grant this request at this initial appearance.*

*However, at later court appearances (prior to trial), sometimes the victim will appear to request that the no contact order be lifted. In my experience, victims will typically make this request to lift the no contact order in a criminal case on the record. If it's in writing, who knows who sent it? The court will want to talk to the victim personally before lifting the no contact order... just to satisfy the court before a decision is made. After all, the victim's safety is at issue. The no contact order is in place for the purpose of victim safety.*

*As a prosecutor, I want the victim to make this request on the record IN FRONT OF THE DEFENDANT who is usually sitting at counsel table with his attorney. Why? For "victim safety" purposes... remember that the defendant is listening. He may be having contact with the victim, even though the court has issued a no contact order in the case. But he doesn't want to get caught and get charged with Bail Jumping. And he probably has gotten to the victim, communicated with her, plead his case with her, perhaps "sweet talked" to her and made promises, and often times convinced her to come to court and make the request. That's his best chance of getting the no contact order lifted.*

*If the court doesn't hear from the victim, the court is unlikely to assume that she wants the no contact order lifted. But... the fact that she's now coming to court and making a statement in open court that she wants the no contact order lifted... he's listening... he now knows that she is willing to come to court on his behalf. The way I look at it: he believes that she is advocating FOR him... No matter what happens, she is safer now that she has made a statement "on his behalf."*

*Usually, before the victim speaks on the record, the victim will have just finished talking to one of the Victim Witness Specialists from my office. If I'm the prosecutor in the*

courtroom, my Victim Witness Specialist will let me know beforehand that the Victim wants the no contact order lifted. I've had victims make statements to the court requesting that the no contact order be lifted... the court will deny the request and allow the no contact order to remain in effect... and then the victim has breathed a sigh of relief. She never wanted it lifted, but he did... so she came to court and advocated for lifting it.

Now, what should be my position as a prosecutor? I usually empathize with the victim; however, if I haven't seen that the defendant has done anything since the incident, I point it out to the court. I may tell the court:

"Judge, I understand the victim's position in this case, and I totally understand the inconvenience that the no contact order has caused to the entire family... But I'm also looking at the allegations in this case where the defendant was intoxicated and repeatedly beat the victim in front of their children. There is also a long history of abuse, with the defendant always abusing alcohol, getting angry and violent, beating the victim, and using power and control tactics to attempt to humiliate and intimidate the victim and other household members. My problem is this... what has he done since this offense? Has he enrolled in Alcohol counseling? Has he enrolled in Batterers' Intervention Counseling? Has he taken any steps to show that he is less of a risk to abuse in the future? Has he taken any responsibility?"

My view is that the prosecutor's response to HER request to lift the no contact order is to shift the focus onto HIM. HE caused this problem. What is HE doing to change? The victim may be telling us that she feels safe today... but what is HE doing to convince us of that fact? How do we know that HE is responsible? What is HE doing to convince us that he is taking responsibility... we know HE isn't pleading guilty... we know that HE isn't enrolling in treatment. How can I, as a prosecutor, take any other position but to object to lifting the no contact order?

Regarding written forms... I don't want any written forms. We've had offenders get their female relatives to call our Victim Witness Specialists and act like the victim on the phone. How do I know it's the victim who has written the letter or filled out some form? If it's delivered to court by defense counsel, I can't be assured that she's received any safety planning... certainly not by any defense counsel. I want the victim to come to court. Despite the inconvenience, if the victim comes to court, I may be able to connect her with a victim advocate from the community. I may be able to make a connection between the victim and our Victim Witness Specialist. I may not get a conviction in this case. But, if a relationship is established between the victim and an advocate or Victim Witness Specialist... then in the future, if she becomes ready to leave, then she may trust one of these professionals and contact them for supportive services. Establishing a trust relationship between the DA's office and/or the community agency is really the key. We need her to feel as if she can trust someone."

Source: Email Communication from Paul Dedinsky, Assistant District Attorney, Milwaukee District Attorney's office (reprinted with permission).

### Tools for Working with Prosecutors on Domestic Violence:

- **Best Practices for Crown Prosecutors Addressing Victim's Issues** (Alberta Department of Justice). [Available in English.](#)
- **Domestic Violence Handbook for Police and Crown Prosecutors in Alberta** (Alberta Justice Communications, 2008). Available in [English.](#)
- **St. Paul Blueprint for Safety: An Interagency Response to Domestic Violence Crimes** (Praxis International, 2010). Available in [English.](#)
- **The CPS Policy for Prosecuting Cases of Domestic Violence** (United Kingdom Crown Prosecutor Service, 2009). Available in [English](#) and [Welsh.](#)
- **Extended Guidelines, The Prosecutor's Pledge** (United Kingdom Crown Prosecutor Service). Available in [English.](#)
- **Guidance on Prosecuting Cases of Domestic Violence** (The Crown Prosecutor's Service (United Kingdom Crown Prosecution Services). Available in [English.](#)
- **Attorney General's Guidelines On The Acceptance Of Pleas And The Prosecutor's Role In The Sentencing Exercise, [United Kingdom Crown Prosecutor Service](#)**. Available in [English.](#)
- **Pretrial Innovations for Domestic Violence Offenders and Victims: Lesson from the Judicial Oversight Initiative** (US Department of Justice Office of Justice Programs, 2007). Available in [English.](#) An examination of pre-trial practices in DV cases aimed at ensuring victim safety.
- **Requisites for Courts Handling Domestic Violence Cases** (Battered Women's Justice Project, 2001). Available in [English.](#) Contains guidelines for any court handling domestic violence cases and separate guidelines for dedicated courts which handle domestic violence cases.

**Justice sector programmes can work with prosecutors to increase effective investigations and prosecutions by:**

**Implementing strategies to reinforce prosecutorial independence and anti-corruption**

- Establish professional prosecutorial associations to promulgate standards of practice and behaviour.

- Encourage civil society organizations to regularly monitor prosecutorial offices through accounting records and case review. For example, the [Tracking Justice Project](#) of [Tshwaranang Legal Advocacy Centre](#) in South Africa studied factors associated with case withdrawals, convictions, and acquittals and reviewed the use of the rules of evidence and procedure in sexual assault cases. Source: Vetten et al., 2008.
- Expose fellow prosecutors to international best practices and expert advice through conferences, web forums, and workshops.
- Implement automated case [management systems](#) to limit opportunities for assigning cases under improper influence.
- Establish a system for regular review of personal assets and income.
- Publish an annual review of cases reported and prosecuted, and case outcomes.

#### Prosecutor Associations on the Internet:

- [The International Association of Prosecutors](#) offers conferences and member forums.
- [Australian Association of Crown Prosecutors](#) promotes education of prosecutors, networking, and participates in justice reform.
- Canadian Association of Crown Counsel. Available in [English](#) and [French](#).
- [European Judges and Prosecutors Association](#) For judges, prosecutors, magistrates and students in 14 EU countries. Available in [French](#), [English](#), [Portuguese](#), [Spanish](#), and [German](#).
- [Africa Prosecutors Association](#) - Facilitates information-sharing and co-operation among prosecutors in Africa.
- [Association of Prosecuting Attorneys](#) represents all types of prosecutors. It hosts a global forum to provide access to technology, idea exchange, and collaboration with criminal justice systems professionals. Contact: [info@apainc.org](mailto:info@apainc.org). Available in 52 languages.
- [National Center for the Prosecution of Violence Against Women](#) of the US-based [National District Attorneys Association](#) offers case consultation, trainings, jury selection consultation, and articles on prosecution techniques to prosecutors of domestic violence, dating violence, sexual violence, and stalking cases. For technical assistance, click [here](#).
- [AEquitas, The Prosecutors' Resource on Violence Against Women](#) US-based organization offers [technical assistance](#) in cases on violence against women.

### ***Robustly and supportively prosecuting cases of violence against women and girls***

- Obtaining all relevant background material for pursuing cases of violence against women, such as medical reports, the offender's criminal history, and evidence of other incidents.
- Devoting time and adequate resources to case preparation, including cases of violence against minority populations.
- Seeking full sentences for cases of violence against women and girls.
- Training prosecutorial staff to reach out to specific populations such as immigrant women, female migrant workers, adolescent girls, and minority women.
- Utilizing [interpreter](#) services, if necessary, at all phases of investigations.
- Protecting survivors from irrelevant attacks on their character and inappropriate cross-examination. These attacks are often based upon stereotypes of victims of violence. Prosecutors should poll juries for evidence of gender bias and file motions for exclusions of unreliable and prejudicial expert testimony.
- Using expert testimony to explain the dynamics of violence against women and its effect upon reporting of the crime, recanting, refusing to testify, and other common victim behaviours. Defense attorneys may pose this behaviour as unusual for rape victims, thereby undermining victim credibility. (Ellison and Munro, 2009).
- Requesting special measures for vulnerable victims and others, including screens and video testifying.
- Allowing defendants to cross examine victims in court only when using special protections such as screens, examination by proxy, or videotaping mechanisms

#### Tools to Support Prosecutions:

- ***Rules of Procedure and Evidence*** (International Criminal Court, 2002). Rules 70-72 are on principles of evidence in sexual violence cases. Available in [English](#), [Español](#), [Français](#), [Русский](#), [عربي](#), and [中文](#).
- ***Introducing Expert Testimony to Explain Victim Behaviour in Sexual and Domestic Violence Prosecutions*** (American Prosecutors Research Institute, 2007). Available in [English](#).
- ***Educating Juries in Sexual Assault Cases: Part I: Using Voir Dire to Eliminate Jury Bias*** (Mallios and Meisner, 2010). Available in [English](#).

***Extending protective and supportive practices beyond the trial***

- Allowing pretrial intervention, treatment, or diversion programmes **ONLY IF** operators of such programmes work with survivor services to enable feedback from the survivor on recurrence of violence, and **ONLY IF** justice officials provide continuous monitoring of compliance with regular, formal reviews, and immediate reports to probation officers and police if violence reoccurs. Pretrial programmes are alternatives to prosecution and seek to divert offenders, especially juveniles, with no prior offenses from traditional criminal justice processing into a programme of supervision and services.
- Requesting conditional release if the defendant's release will be a risk to public safety or to the victim, or if the defendant may not appear for the next court proceeding. Those conditions may include placing the defendant in the care and supervision of a designated person; placing restrictions on travel, association, or place of abode during the period of release; imposing curfew; restrictions on alcohol or drug use; requiring the deposit of other security to ensure return, or imposing any other condition deemed reasonably necessary to assure victim safety and the defendant's appearance for the next court proceeding.
- Ensuring that orders for protection are entered into country-wide registries and that violations of orders for protection are prosecuted. Most protection order registries are confidential; for example, see the [information](#) on the protection order registry of British Columbia, Canada. See a [video](#) on the importance of protective order registries in promoting victim safety(Protection Order Registry: Protecting Indiana's Residents, The Indiana Supreme Court).
- Utilizing new technologies such as electronic monitoring bracelets or automated check-ins to monitor the location of the perpetrator and improve compliance with orders for protection. For example, a 2009 [report](#) on the use of such devices in Madrid, Spain, indicated that courts used them increasingly and that gender-based homicides decreased at a higher rate in Madrid than in the rest of Spain during the 3 years since usage began (ElmoTech Ltd and Comunidad de Madrid, 2009).
- Encouraging prosecutors to participate in community outreach and education in order to increase public confidence.
- Engaging with women's NGOs to obtain information on the willingness of women to report crimes of violence, and why women do not report these crimes, so that the barriers can be addressed.
- Forming teams from all sectors to work together on cases of violence against women. In addition to the prosecutor, teams should include:
  - Police
  - Victim/Witness Team within prosecutor offices
  - Victim/Witness Advocate

- Probation and parole officers
- Support service providers
- Child welfare service professionals

### **USA – Electronic Monitoring Increases Victim Safety, Offender Accountability**

Lane County, Oregon, United States has instituted a pretrial release programme conditioned upon the wearing of an electronic ankle bracelet. The programme, court officials say, has improved victim safety and the rate of defendants who appear in court. Officers meet weekly with the monitored defendants and use surprise home visits to ensure compliance. Officials note that only 7 of 332 monitored defendants failed to appear in court during a two-year period. Defendants are able to return to work, and the monitoring makes victims feel safe.

The ankle bracelets are part of a Victim Safety Program that includes an 8-page danger assessment form with information on past convictions, past failures to appear, and violations of protection orders. Pretrial release officers use the assessments in making decisions about conditional release, and defendants can appeal the decision to a court. The programme has been particularly useful in this part of Oregon, which lacks funding to provide enough cells for all defendants prior to trial.

Source: McGowan. 2010. *Pretrial Program Scrutinized*.

#### **Tools:**

- ***Prosecuting Alcohol-Facilitated Sexual Assault*** (American Prosecutors Research Institute of the National District Attorneys Association, 2007). Available in [English](#).
- ***Working with Immigrant & Refugee Victims: A Guide for Prosecutors, Law Enforcement, and Advocates*** (Minnesota County Attorneys Association and Minnesota Center for Crime Victim Services, 2000)[sent with December draft] Discusses barriers faced by immigrant and refugee victims of crime, ways to help victims overcome these barriers, and methods to improve investigation and prosecution of domestic abuse and sexual assault cases with immigrant and refugee victims.

#### ***Working effectively with police***

- Collaborating with police to train dispatchers, patrol officers, and police chiefs at every level on issues of gender-based violence, investigative techniques, arrest and charging issues, evidence questions, weapon confiscation, and victim protection.
- Ensuring that police:
  - Use proper investigative and search techniques so that evidence will be admissible in court. For example, the use of head cameras in United



Kingdom is limited to uniformed police and in situations with a policing purpose or an evidentiary need. The subsequent care and keeping of recordings is regulated by [Home Office guidelines](#) as well.

- Conduct [detailed, private, and respectful interviews](#) of parties and witnesses. Female officers should interview survivors.
- Fully complete a report about each incident of violence.
- Conduct follow-up interviews with victims and witnesses for additional information and new photographs.
- Understand applicable laws on violence against women, including the elements of the crime and special criminal procedures applicable to these offenses.
- Understand and apply the concept of self-defense to the facts of an incident of domestic violence before making an arrest. Self-defense should include defense not only of self, but of others and property. Incidents where a person uses reasonable force in defense of themselves or others should not result in arrest of that person.
- Consult experienced police detectives and forensic health care professionals where available to help distinguish between offensive and defensive injuries.
- Use all available means to identify and arrest only the [predominant aggressor](#) in cases where complaints are received from two or more persons involved in a domestic violence incident. *Adapted from: [National District Attorneys Association's Policy Positions on Domestic Violence](#), USA, 2004.*

#### Tools for Working with Police:

- See the Security Sector Module on the [Virtual Knowledge Centre](#).
- ***“She Hit Me Too” Identifying the Primary Aggressor: A Prosecutor’s Perspective*** (Strack, 1998). [English](#)
- ***Domestic Violence Handbook for Police and Crown Prosecutors in Alberta*** (Alberta Justice Communications, 2008). Available in [English](#).
- ***Intimate Partner Violence Victims Charged With Crimes: Justice and Accountability for Victims of Battering Who Use Violence Against Their Batterers*** (Greipp, Meisner, and Miles, 2010). Provides steps necessary to determine whether a defendant charged with domestic violence is in fact a victim and how to evaluate self-defence and predominant aggressor analysis. Available in [English](#).
- ***Improving Law Enforcement Investigation Techniques: a Curriculum*** (Advocates for Human Rights, 2003). Available in [English](#).

- For additional tools and training materials for police, see the [security sector module](#).

### ***Establishing special prosecutorial units***

Forming specialized prosecutorial units to facilitate training, foster expertise, and increase efficiency and quality of services to survivors. Survivors should have the option to work with female prosecutors. Units should be fully and consistently funded to promote sustainability. Research indicates that specialized domestic violence prosecution units increase prosecution and conviction rates, as well as victim cooperation and satisfaction (Klein, 2009). The advantages of specialized units are:

- Prosecutors develop expertise on issues of violence against women.
- Opportunities readily exist for regular review of protocols and policies for best practice standards.
- Prosecutions are facilitated generally for cases of violence, possibly due to greater responsiveness to victims, a higher expectation of victim participation in the prosecution, and more efficient use of information, including data on recidivists and police reports (Klein, 2009).
- Faster prosecutions can prevent escalation of violence.
- Prosecutors may be able to coordinate more effectively with the community. Specialized domestic violence prosecutor units may be more likely to participate in task forces or coalitions involving community agencies. (Klein, 2009).
- Prosecutors may take a more active part in building cases and may take on more challenging cases, thus improving impunity (Kelly, 2003).

### **Specialized Prosecutor Units Improve Access to Justice in Afghanistan**

In Afghanistan, international and governmental organizations have founded specialized prosecutor units which focus on crimes of violence against women and girls under the 2009 Elimination of Violence Law. The first unit was formed in Kabul in 2010 and consisted of eleven prosecutors who received special training on gender justice. In the first year they prosecuted nearly 300 cases, usually of assault or rape, and prosecutions doubled from the first to last month of the initial year. The Kabul Unit also formed a network of victim support services with shelters, health, and educational resources in order to facilitate their use by women and girls. Its success prompted the Afghan Attorney General and international governments and organizations to open a second specialized unit in Herat in 2011.

Source: International Development Law Organization. 2011. [Le Bureau du Procureur Général et L'OIDD Lancent Une Unité De Lutte Contre la Violence à L'Encontre des Femmes dans la Province de Herat, en Afghanistan.](#)

### ***Using specially-designated prosecutors***

Training specially-designated individual prosecutors, who are trained on the dynamics of violence against women is a useful strategy when establishing specialized units is not feasible. Also, using vertical prosecution is another strategy in managing case assignment. With vertical prosecution, the same prosecutor is assigned to the case from beginning to end. Benefits of vertical prosecution include:

- Continuity and familiarity for victim and prosecutor
- Less necessity for victims to provide repeated statements, which is difficult and traumatic for victims
- Less opportunity for missteps when cases are transferred
- More opportunity to develop trust for victims. (Center for Sex Offender Management, [The Comprehensive Approach to Adult and Juvenile Sex Offender Management: An Overview](#)).

### ***Working with victim/witness advocates on maintaining effective communication with survivors***

Although prosecutors have the primary responsibility to keep victims informed, victim/witness advocates can act as a liaison between the victim and the prosecutor by providing important knowledge about the upcoming court processes to survivors. They can enhance a victim's safety, and ability and willingness to be an effective witness. Advocates can also provide emotional support. When victims feel supported and have an idea of what to expect, they are more likely to help in the prosecution of their case. Prosecution will be facilitated and more perpetrators will be convicted. Prosecutors and advocates can enhance prosecutions by:

- Informing survivors of their [rights](#) in the case.
- Working to [coordinate victim services/witness care](#) throughout the criminal proceeding and to coordinate support services so that survivors are not re-traumatized. For example, [Thuthuzela Care Centres](#) in South Africa provide a full range of services for survivors, from counseling to legal and medical assistance.
- Informing victims of [court policies and procedures relevant to their case](#), including setting terms and conditions of bond, release dates, trial and sentencing dates, and other relevant information regarding sentencing or post-trial motions.
- Orienting victims and their families to courtroom procedures and the upcoming trial process so that they understand what is expected of them at each stage.
- Advance notice of details of all hearings related to the case, including location and times of hearings.
- Providing victims with information on how to travel safely to and from court.
- Accompanying victims to court hearings.
- Explaining all prosecutorial decisions and the reasons for the decisions, including decisions made to drop the case.
- Offering opportunities for survivors to provide input into the case.

- Offering opportunities for survivors to voice their fears about the perpetrator or the court process.
- Being responsive to survivor questions about the risks and benefits of testifying, and the risks and benefits of not testifying.
- Coordinating victim contact with psychologists, psychiatrists, and forensic professionals so that victims do not have to repeat necessary forensic exams and other procedures.
- Assisting victims in obtaining [civil protection orders](#) and other protective measures which are available to survivors, such as no contact orders and [courtroom safety measures](#).
- Giving victims information on how to enforce court orders and what to do if an order is violated.
- Offering information on the effect and consequences of the court's judgment and the appeals process.
- Informing the survivor when the perpetrator is released from jail or discharged from a perpetrator programme.
- Assisting victims in obtaining [restitution](#) or reparation of damages (payment from the perpetrator for damages incurred as a result of the crime, such as lost wages and property damages) and state compensation if available (a programme offered by some states to provide financial help to victims of crime). They will enable survivors to rebuild their lives and may prevent them from returning to an abuser. Strategies include:
  - Providing victims with information about compensation and restitution in writing.
  - Making the provision of compensation obligatory so that victim credibility is not compromised by a request for compensation. (Rosenburg, 2008).
  - Prioritize restitution or reparation of damages, and organize the payment system so that victims receive the money ahead of court costs, fines, and penalties.
  - Monitor scheduled payments for compliance.
  - Establish mechanisms to pursue claims independent of victim action.
  - Incorporate lost wages, relocation costs, and property damages into restitution payments.
  - Employ collection means such as wage attachments, whereby a fixed amount is sent from the perpetrator's payroll to the survivor, and property seizure, where assets of the perpetrator may be sold to produce resources for the victim, when necessary.
- Providing assistance for victims in applying for compensation from state government programmes.
- Assisting victims in completing victim impact statements.
- Providing victims with referrals to a full range of social support services, such as crisis counseling, emergency housing, [safety planning](#), and legal assistance. A victim who is safe will be a more effective witness.
- Maintaining confidentiality of victim's contact information. Contact information should be kept separate from court files to avoid inadvertent disclosure to perpetrators.

- Informing victims about all information, such as police reports, that will be released to the perpetrator.
- If victim/witness teams do not provide full confidentiality to survivors, providing survivors with an understandable written policy regarding victim/witness team confidentiality.
- Informing victims of considerations that were taken to ensure a survivor's safety in the prosecutor's assessment and preparation of the case.
- Informing victims of considerations that were taken regarding a survivor's wish not to testify, including considerations of her cultural and religious beliefs, before requiring a survivor to testify via subpoena.
- Informing victims of possible use of a subpoena, or an order to appear in court, with the survivor. Subpoenas can alleviate the pressure on a victim from the abuser to drop charges. If a victim appears in court, her out-of-court statements will likely be admissible as evidence, and she will gain more information about her case. Subpoenas also provide the survivor with documentation of the necessity to leave work.
- Informing victims of consequences of disobeying a subpoena. Prosecutors should understand that a victim of violence may have important reasons for failure to appear. Prosecutors should use their best judgment and discretion in each case to consider whether a citation for contempt, the crime of deliberately failing to obey or respect the authority of the court, is an appropriate response (National District Attorney's Association, 2004).

### Kenya – Men Support Survivors of Violence

Men for Gender Equality Now, a civil society organization in Kenya, provides support for survivors of violence in court proceedings by attending court in red T-shirts with anti-violence messages on them. The group also helps survivors to access medical and legal services.

Source: Men for Gender Equality Now and The African Women's Development and Communication Network. 2010. [Defying the Odds : Lessons learnt from Men for Gender Equality Now.](#)

### Peru – Community Defenders Programme wins Award

The Legal Defense Institute created a community response to domestic violence called "[Community Defenders](#)" which operates through community legal defense offices. Besides offering psychological support to the victims, the defenders accompany the victims to legal proceedings of the cases brought against aggressors. The project proved to be an innovative, low cost way to mobilize the community. Its impact was increased by the strong alliances project implementers formed with the justice sector.

Source: ECLAC. 2009. [No more! The right of women to live a life free of violence in Latin America and the Caribbean](#)

### Tools for Victim Advocacy:

- **Service Charter for Victims of Crime in South Africa** (Department of Justice and Constitutional Development). Rights of victims of crime, complaint information. [English](#).
- **Uniform Protocol for the Management of Victims, Survivors, and Witnesses of Domestic Violence and Sexual Offences** (National Prosecuting Authority of South Africa). A resource for service providers, traditional leaders, and others. Comprehensive set of minimum standards in service delivery, monitoring of services, and governance of service delivery. Available in [English](#).
- **Victim Advocacy Training and Technical Assistance** (US Department of Justice, Office of Victims of Crime). [English](#).
- **Regional Victim/Witness Protection Protocol to Combat Trafficking, Commercial Exploitation and Sexual Abuse of Women and Children in South Asia** (Regional Action Forum on Improving the Interpretation of Laws Protecting Women and Children). [English](#).
- **International Framework for Action to Implement the Trafficking in Persons Protocol** (United Nations Office on Drugs and Crime, 2009). See page 26 for victim protection protocol. [English](#).
- **Code for Crown Prosecutors** (United Kingdom Crown Prosecution Service). General principles for Crown Prosecutors on decisions to prosecute. Available in [English](#), [Welsh](#), [Arabic](#), [Bengali](#), [French](#), [Gujurati](#), [Polish](#), [Punjabi](#), [Somali](#), [Tamil](#), [Traditional Chinese](#), [Urdu](#), and an [English Easy Read Version](#).
- **Core Quality Standards** (United Kingdom Crown Prosecution Service). Standards for service quality for prosecutors and staff. Available in [Arabic](#), [Bengali](#), [Chinese](#), [French](#), [Gujarati](#), [Polish](#), [Punjabi](#), [Somali](#), [Tamil](#), [Urdu](#), and [Welsh](#).
- The Home Office of the government of the United Kingdom provides victims of sexual offenses with an informative [webpage](#), including a [virtual walkthrough](#) that describes court processes and a [video](#) on testifying in court for witnesses. A brochure on victim impact statements is available in [English](#). Information on how victim impact statements may be used is available in [English](#) and [Spanish](#). A brochure on victim impact statements for children is available in [English](#).

- ***Annex F, Crown Prosecution Services, Delivery by CPS*** (United Kingdom Crown Prosecution Services). Victim service standards for prosecutors. Available in [English](#).
- ***The Crown Prosecution Services Prosecutors' Pledge*** (United Kingdom Crown Prosecution Services). Pledge to victims or family members of victims. Available in [English](#).
- ***Le Guide des Droits des Victimes*** (Republique Française, Ministère de la Justice). A handbook for women victims of violence and their advocates. [French](#).
- ***Victims of Crime Protocol: What victims of crime can expect from the criminal justice system*** (Victim Services Branch, Alberta, Canada, 2007) Created by the collaborative effort of victims, police, prosecutors, medical examiners, and court service providers. [English](#).
- ***Information on Domestic Violence*** (Alaska, USA Department of Law, Criminal Division, 2010). [English](#).
- ***Information on Safety Planning*** (Alaska, USA Department of Law, Criminal Division, 2010). [English](#).
- ***Information on Sexual Assault*** (Alaska, USA Department of Law, Criminal Division, 2010). [English](#).
- The Rape, Abuse and Incest National Network, USA, offers a [website](#) on Reporting the Crime to the Police with information on reporting, what to do immediately after a rape, forensic evidence, and punishing rapists.
- ***Tips and Guidelines to Prevent and Report Violence Against Women*** (Fundación Sobrivientes, Guatemala, 2010). [Spanish](#).

### ***Establish services designed for adolescent girls***

Prosecutors should consider the special vulnerabilities and needs of young girls who are the victims of sexual violence or domestic violence. Girls may suffer from a number of short- and long-term harmful effects including depression, suicide, eating disorders, post-traumatic stress disorder, substance abuse, and low self-esteem (Cody, 2009). Compassionate support, promptly offered and extended long-term as needed, is critical to avoiding these harmful effects. Prosecutors should prioritize resources for specialized interventions for teenage and young girls. Strategies for these cases include:

- Providing advocates who are specially trained to act in a child's best interest to assist children and teenage girls who have survived sexual violence. Advocates

can consolidate appointments and testimonies, and act as a consistent support person for the survivor.

- Providing safety plans. For a child's safety plan, click [here](#). For a safety plan that considers children's needs (p. 12), click [here](#).
- Providing specialized equipment to aid prosecutions, including two-way mirrors, posters, drawings, and anatomically-correct dolls.
- Providing clear and age-appropriate information in written form for children and teenage girls on:
  - Their rights in the case.
  - What to expect in the legal process.
  - Available service options.
  - Case hearings, decisions, and progress.
- Providing training for forensic examiners and medical practitioners on specialized techniques for sensitive examinations and evidence-gathering.
- [Utilizing vertical prosecution](#) to ensure prosecutor familiarity with case and victim familiarity with prosecutor
- Providing age-appropriate programmes to familiarize young survivors with court processes.
- Providing protection to children and youth that is safe but does not involve a prison setting.
- Developing clear protocols and guidelines on working with children and teenage girls who are victims of sexual violence, and mechanisms to monitor and enforce the protocols.
- Providing ongoing training for prosecutor, judiciary, and court staff on best practices for working with children and teenage girl survivors.

### USA – Kids' Court and Teen Court, King County, Washington

Kids' Court is an innovative court awareness programme developed to: Help child victims of sexual abuse and other forms of victimization and trauma and their families participate effectively in the criminal justice process, and help these children and families better cope with the experience of going to court.

The Mission Statement states that:

***Children who have experienced sexual victimization or have suffered from other forms of crime or traumatic events may suddenly and involuntarily become involved in the criminal justice system. Many things about this system are complicated and can evoke feelings of anxiety. The Kids' Court philosophy is that no child should encounter having to testify in court without assistance in making that experience less intimidating. Kids' Court educates and supports children and their parents and caretakers as they participate in the criminal justice process.***

The Kid's Court programme, for ages 4-12, is offered several times a year in urban and rural locations. A judge and a prosecutor lead discussions, role-plays, games, and



question-and-answer sessions to increase children's familiarity with courtroom procedures and personnel. The last part of the programme aims to increase the child's comfort level and self-confidence. The importance of telling the truth is emphasized. Children learn:

- Why a witness is important and how to be confident in that role
- How kids can participate successfully in a the legal system through enhancing knowledge of courtroom procedures
- How to reduce feelings of fear and anxiety though relaxation techniques that are fun, easy and helpful
- Practical methods to manage courtroom worries such as, "What if I start to cry?" or "What if I don't understand a question?"

To support and reinforce these sessions when Kids' Court is over, each participant receives a book entitled, Do You know You Are Very Brave? A Child's Guide To Testifying in Court and a relaxation tape. While the children are attending the programme, their parents attend a programme for adults which teaches them:

- How to support their child during their involvement with the justice system
- Stress management techniques to help reduce anxiety and other negative emotions
- To share common concerns about being involved with their child in the legal process
- Greater insight into the criminal justice system
- Our community cares and will respond with sensitivity to the needs of victims and families

Parents also receive a Parent Informational Packet and a relaxation tape.

Kids' Court has received many awards and recognitions. The U.S. Department of Justice, Office for Victims of Crime recognizes Kids' Court as a "best practices" model programme that is exemplary in innovation, development of partnerships, outreach methods and multidisciplinary approaches that address the needs of children.

For the training manual and sample materials, see: [Kids' Court Training Manual](#); [Kids' Court Sample Materials](#)

**Teen Court**, modeled after [Kids' Court](#), is a special programme designed to help teenage victims of sexual abuse and other crimes and their families to participate positively in the criminal justice system and to develop their self-confidence and comfort with the court process. Also held several times each year in an urban and a rural location, it involves teens in interactive programming.

As with the younger children, a parent session is offered to answer questions about the trial process and the court system.

A manual and curriculum is available to prosecutors, victim advocates, and judges. The book is marketed on a not-for-profit basis to enable other jurisdictions to begin similar programmes.

Contact: **Donna Belin**, MEd, Executive Director  
 King County Kids' and Teen Court  
 Office of the Prosecuting Attorney  
 Special Assault Unit  
 704 228th Avenue Northeast, PMB 323  
 Sammamish, WA 98074-7222

### **An Interview with the Executive Director of Teen Court**

*The primary objectives of Teen Court, an innovative educational court awareness programme, are to assist victim/witnesses of sexual abuse, and other types of victimization and trauma, accomplish the following: obtain information about courtroom procedures and personnel; learn relaxation techniques that reduce anxiety and fear; help participants become more confident in their role as witnesses; learn that telling the truth is the most important rule of the court; and realize that adults care about them.*

*Teen Court is a collaborative effort on the part of the prosecutor's office, advocacy personnel, and community volunteers from varied disciplines such as criminal justice, education, counseling and psychology, and social services. The message we send is that although contributing staff may experience territorial or other issues in relation to their work environment, within the context of Teen Court, we are all in this together for a common goal.*

*King County Teen Court is a volunteer services programme and its success depends on the energy, commitment, and expertise of its volunteers—both generalists and specialists. It is the director's challenge to tap into the community resources, harness the talent of an interdisciplinary staff, and provide the vision, administrative leadership, recognition/appreciation, and motivation that sustains a high level of competence, confidence, and spirit. Individuals who are selected to staff Teen Court have extensive experience in the criminal justice and/or educational fields, relate exceptionally well with young people, and contribute a sense of safety and respect while making a positive contribution to the self-esteem of each teen participant.*

*Teen Court takes place several times a year. Males and females have their own sessions. All teens with approaching trial dates are issued an invitation to the next Teen Court. The director follows up with a personal call to each teen and parent/guardian to describe the programme and confirm attendance. This follow-up contact is critical to motivating a teen's participation in Teen Court.*

*Teen Court is strictly an educational programme. No one discusses their individual case during the session. Our programme begins with the facilitator's note of appreciation to*

*our teens for attending the session, an introductory component when the girls introduce themselves and share a personal comment (e.g. their favorite television show), and a brief review of the contents of the Teen Packet—which includes an outline of their rights. This section is followed by a panel discussion facilitated by survivors who have experienced the trial process. The panelists discuss their perceptions, share helpful hints, and discuss areas of concern. They emphasize that the important thing is not whether the defendant is found guilty or not guilty, but the fact that the victim tells their story and speaks the truth in court.*

*Following the panel discussion, the prosecutor takes the group into a courtroom where he or she explains clearly and understandably the courtroom procedures and personnel. The girls learn specifics (e.g. which door the defendant will enter; who is allowed to observe the trial proceedings) and have an opportunity to sit in the witness chair and practice projecting their voices. Participants use their time with the prosecutor to ask all kinds of questions and express their deepest concerns. During the next programme component, while the parent/guardians have their chance to meet with the prosecutor, our relaxation specialist teaches the teens a number of relaxation techniques and exercises to enhance self-esteem and confidence.*

*Teen Court is a successful court awareness programme. Its objectives underscore our belief that when a young person learns about the judicial process and gains some familiarity with a courtroom, he or she is less likely to be frightened and more likely to participate fully in the process. Hence, justice can be served and the rights of all involved protected.*

Source: Email interview with Donna Belin, March 22, 2011.

### **Tools For Creating a Teen Court Programme:**

- For a youth invitation to Teen Court by the King County Teen Court in Washington, USA. Available in [English](#).
- For a parent invitation to Teen Court by the King County Teen Court in Washington, USA. Available in [English](#).
- For a Teen Court agenda by the King County Teen Court in Washington, USA. Available in [English](#).

Prosecutors should work with other professionals to provide comprehensive services for victims of sex trafficking or sexual abuse by:

- Providing essential services to children or teenage girls who have been internationally trafficked, such as:
  - Food, clothing, and safe shelter;
  - Assistance in obtaining legal documentation or family tracing;
  - An assessment of support for the survivor in her home country;
  - Translation services;
  - Referrals to long-term housing options and educational services if return to home country is not viable; and

- Medical services including testing and treatment for sexually-transmitted infections, medical, optical, and dental check-ups, substance abuse evaluation and treatment, and psychological support services.

### Protecting Child Victims

The “[Coalition for child-friendly interviewing](#)” of [Fundacja Dzieci Niczyje](#), Poland  
This organization protects the rights of child victims who participate in legal procedures through promoting and implementing the idea of friendly interviewing of child witnesses, creating child-friendly interview rooms, and improving the capacity of professionals who participate in legal interventions, interview children, and provide help for child victims.  
Source: [Fundacja Dzieci Niczyje](#), last acc. 3-11.

The [Barnahús](#) or Children’s House, Iceland, provides [child-friendly](#) interviewing facilities through the use of toys, colourful walls, and pictures, with the aim of not subjecting victims of sexual abuse to multiple interviews. The interview can be monitored by judges, social workers, police, lawyers, and others. Barnahús also provides medical and educational assessments, treatment, and counseling. The centre acts as a forum for cooperation of relevant agencies and works to improve the expertise of those who work with abused children.

Source: [Barnahús](#), last acc. 3-11.

#### Tools for protecting children:

- ***Guidelines for the Alternative Care of Children*** (United Nations Gen. Rec. 64/142, 2010). [English](#), [Spanish](#), [French](#), [Russian](#).
- [Caring for trafficked persons: Guidance for health providers](#). (International Organization for Minors, London School for Hygiene and Tropical Medicine, and United Nations Global Initiative to Fight Trafficking in Persons, 2009). Contains a section on children and youth (p. 71). Available in [English](#).
- For a video on how child victims of sexual exploitation are coping, click [here](#). ([Barnardo’s](#), ‘Turning lives around themes’).
- To order an interactive CD-ROM that prepares children and youth up to age 12 on being a witness in court in the United Kingdom, click [here](#). ([Barnardo’s](#)).
- ***Guidelines on the Protection of Child Victims of Trafficking*** (UNICEF, 2006). Available in [English](#).
- ***Multi-Agency Practice Guidelines: Female Genital Mutilation*** (HM Government, United Kingdom, 2011). Available in [English](#).

- *Busi Goes to Court* (The Directorates: Publications, Community Services and Children's Issues, Department of Justice, South Africa). A colouring book which informs child victims about special measures to make testifying in court less stressful, such as testimony via closed-circuit TV. Available in [English](#).
- [Kids Go to Court](#) (District Attorney's Office, Alaska, USA). A colouring book for child victims. [English](#).
- ***Child Sexual Abuse: Intervention and Treatment Issues*** (Faller, 1993). Available in [English](#).
- ***CPS Policy on Prosecuting Criminal Cases Involving Children and Young People as Victims and Witnesses*** (Crown Policy Service Directorate, 2006). Available in [English](#) and [Welsh](#).

#### Tools for working with young survivors:

- ***Protocolo de Atencion Legal a Victimas de Delitos Sexuales y Violencia Domestica Cometidos por Personas Menores de Edad*** (Sandoval et. al., 2008, Costa Rica). A protocol for legal attention to young victims of sexual crimes and domestic violence. [Spanish](#).
- ***Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*** (United Nations Economic and Social Council, Resolution 2005/20, 2005). [English](#).
- ***"A Full and Candid Account:" Using Special Accommodations and Testimonial Aids to Facilitate the Testimony of Children*** (Cunningham and Hurley, 2007, Canada). Available in [English](#) and [French](#). Handbooks for prosecutors, judges, and others to help child witnesses provide accurate and complete evidence in court. Topics include: Overview of Issues, [English](#) and [French](#); Testimony Outside the Courtroom, [English](#) and [French](#); Witness Screens, [English](#) and [French](#); Video-Recorded Evidence, [English](#) and [French](#); Designated Support Person, [English](#) and [French](#); Hearsay Evidence and Children, [English](#) and [French](#); and Children and Teenagers Testifying in Domestic Violence Cases, [English](#) and [French](#).
- ***Testifying in Court: Choices for Youth in British Columbia*** (Justice Education Society, British Columbia, Canada). [English](#). Includes a [video](#) on what to expect in the court process and other [resources](#) and [links](#).
- ***Good Practice Guide for a Judicial Approach to Children/Adolescent Victims/Witnesses of Violence, Sexual Abuse and other Crimes - Protection of their Rights and Securing Valid Evidence for the Process*** (Asociación por los Derechos Civiles, UNICEF, 2010). Available in [Spanish](#).

## Provide Training and Capacity Development

Justice sector capacity should be broadly expanded to:

- Disseminate knowledge on laws on violence against women to the public, legal professionals, paraprofessionals, judges at all levels, and all court personnel.
- Improve court infrastructure with new or improved means for women and girl survivors of violence to access justice.
- Create country-wide databases on prevalence and incidence of violence against women and on perpetrators of violence.
- Educate judges, prosecutors, and court administrators on all issues relevant to violence against women.
- Institutionalizing protocols

Laws on violence against women have evolved considerably in the last decade and legal professionals and the public should become aware of new laws and best practices in their country and around the world.

Resources should be dedicated to maintaining adequate facilities and equipment for all segments of the justice sector. The advances in computer technology can enhance the implementation of laws on violence against women. Reviews of country law, policy, and practice and the latest techniques in case management may be easily accessible online and if not, can be made available by web seminar to enhance the justice sector's knowledge base and capacity. Regular, ongoing training programmes for current and new justice system staff members is necessary to implement laws on violence against women.

### ***Develop or Modify Court Infrastructure***

Dedicated courts, or courts that only handle cases of violence against women, have improved general efficiency in prosecution of such cases and have improved the experience of survivors and their families. These courts shorten delays, improve coordination with other justice system actors such as prosecutors and probation officers, and allow judges to become knowledgeable in issues pertinent to violence against women. Dedicated courts are most efficient in urban or centrally located regional areas where there are many cases of violence against women. Some dedicated courts handle only cases of domestic violence, such as the United Kingdom's Specialist Domestic Violence Court Programme. (For a video on the UK programme, click [here](#).) Others courts, such as those in Spain, hear both criminal and civil cases. South Africa has courts which hear only cases of sexual violence.

#### **South Africa – Sexual Offences Courts**

In 1993, South Africa created [Sexual Offences Courts](#) to implement an improved response to women and child survivors of sexual assault (Sadan, 2001). The Courts are staffed by police, investigators, prosecutors, social workers, and health care professionals who have been trained in issues of sexual violence. The staff collaborates through all phases of the criminal process to support the victim and to effectively investigate and prosecute the case. Since their creation, conviction rates have risen and the duration of the case, from reporting to conviction, has dropped from 3-5 years to less than 6 months, according to a representative from the National Prosecuting Authority.

See the full assessment in [English](#).

Source: UNICEF. 2010. [South Africa: Thuthuzela Care Centres](#) last. acc. April 2010.

Specialized courts can:

- Expedite cases of violence against women, thus increasing victim safety.
- Increase expertise by providing opportunities to train the judiciary and court clerks on relevant laws on violence against women and women's human rights.
- Increase expertise by providing opportunities to train the judiciary, court clerks, and court officials on gender-based violence issues and sensitivity to survivors including marginalized survivors such as Roma populations.
- Reduce the re-traumatization of survivors who must testify repeatedly in different courts.
- Provide a comprehensive strategy for victim services, including specially-trained prosecutors, police, social workers, health professionals, judges, and all court personnel, including court clerks and administrators.
- Provide continuity of personnel.
- Potentially increase adjudications, convictions, and justice for victims of violence.
- Eliminate contradictory orders, such as child custody orders stemming from civil domestic violence cases and criminal domestic violence cases.

Challenges to specialized courts include:

- Lack of access for rural victims.
- Lack of resources to support specialized court.

- Lack of comprehensive services available to survivors at court site.
- Lack of comprehensive inter-agency service plan for survivor support.

Specialized domestic violence courts in the US were found to provide a number of benefits: more efficient management of cases, more efficient integration of case information, improved victim access to courts, specially-trained intake and court staff, expedited hearings, coordination of victim assistance and offender compliance with specialized prosecution units, improved safety procedures in courtrooms, and more domestic violence training for judges. Judges of specialized domestic violence courts were also more likely to impose stricter sanctions against convicted offenders (Klein, 2009).

***An interview with James McCarthy, Judge, Oswego County, New York State, USA***

*Judge James McCarthy, the first of the New York State dedicated Sex Offense Court judges, has been the presiding judge in the Sex Offense Court since its inception in Oswego County. He shared his thoughts on the model sex offense court and his experience in the first court in New York State. The initial planning and implementation of the Oswego Sex Offense Court saw both challenges and benefits. Below, Judge McCarthy discusses this planning process with the Center for Court Innovation:*

***Q: What were the specific challenges the Oswego Sex Offense Court faced?***

*There was resistance because of lack of knowledge. Some have the mistaken concept that the designated sex offense courts somehow de-criminalize sex offenses, when in fact the model is about properly sentencing convicted sex offenders. Defendants that deserve to go to prison go to prison. There are no "breaks" because someone is in the sex offense court.*

***Q: How have partners contributed and responded to the Oswego Sex Offense Court?***

*Through the court planning process, it was clear how important it is to get partners involved. The feedback from the probation officers is that in the old days, probation violations could take months to get a disposition. In the sex offense court, if they file a violation on a Monday, there could be a hearing as early as that week. These violations are handled in front of the other defendants and they see what happens when someone violates. The effect is 1000% better. When someone does something they shouldn't, I know about it immediately. Their rights are preserved, the victims are safe, and the court is able to address things appropriately and immediately.*

***Q: Can you describe some of the benefits of the Oswego Sex Offense Court?***

*All of these cases are heard by one judge who is trained to deal with the cases and is informed about the dynamics of sex offenders. In addition, the prosecutor, victim advocate, legal service attorneys and court staff are all trained as well, so the partners are mobilized in an efficient manner that allows prosecutors, defense attorneys and*



*defendants to appear within 2 weeks for a pre-trial conference. This case processing is a formula that allows for speedy dispositions where the attorneys are informed, the case cannot lag and no one is falling through the cracks. It used to be that delay could be used as a weapon in sex offense cases, but with this court, the defendants, the victims, and the community are all being better served.*

*It is rare that sex offenders will be incarcerated forever. If sex offenders have families, they may have to live with those families, in their neighborhoods. In order to be productive and comply with conditions of probation, sex offenders must have jobs, make a living and stay away from things that could trigger the offending behavior. All of these things require supervision, constant monitoring and a criminal justice system that can quickly respond to even the most subtle signs.*

*When sex offenders know that they are being watched and the community knows that the court and probation are keeping a watchful eye on defendants, then it is rare that they will ever get away with something. Hopefully under these circumstances, the sex offender can live somewhere and work somewhere, without being demonized, while still being closely supervised.*

**Q: What do you see as the future of the sex offense problem solving courts?**

*I think you will find a sex offender court in every county in New York and every state in this country. Sex offender courts are going to expand because the public wants to see compliance and monitoring by the criminal justice system of sex offenders that are in the community. Once the public realizes what can be done via these courts, I think the model will be established everywhere. All the partners are already there, it just needs to be organized, the partners need to be trained and the expertise needs to be applied.*

Reprinted with permission of the Center for Court Innovation, [www.courtinnovation.org](http://www.courtinnovation.org).

For an example of a national sex offender registry, see the [Dru Sjodin National Sex Offender Public Website](#), US Department of Justice.

### **Tools for Specialized Domestic Violence Courts:**

- **Specialist Domestic Violence Court Programme Resource Manual** (United Kingdom Home Office et al., 2006). Recommendations and best practices for victim safety in developing dedicated courts as part of a coordinated community response. [English](#).
- **Creating a Domestic Violence Court: Guidelines and Best Practices** (Sack, 2002, USA). Provides guidelines to determine if a domestic violence specialist court is appropriate. Also includes recommended components, court models, and implementation action plans. [English](#).

- ***Requisites Specific to Dedicated Domestic Violence Courts and Dockets*** (Battered Women’s Justice Project and Consultants, 2003, USA). [English](#).
- [Pretrial Innovations for Domestic Violence Offenders and Victims: Lessons from the Judicial Oversight Initiative](#) (US Department of Justice Office of Justice Programs, 2007). Specific guidance for restructuring courts to promote victim safety and offender accountability in domestic violence cases. [English](#).
- ***Specialized Criminal Domestic Violence Courts*** (Helling) Includes different models for providing a specialized court response to domestic violence. Available in [English](#).

### Tools for Establishing a Sexual Offences Court

(Reprinted with permission of the [Center for Court Innovation](#) New York, USA)

- [Establishing a Model Court: A Case Study of the Oswego Sex Offense Court](#) (Grant): An in-depth look at the establishment of the first designated sex offense court in New York State. In partnership with the New York State Office of Court Administration, the Center for Court Innovation helped design the specialized sex offense court model to enhance the oversight of offenders and the provision of services to victims.
  - **Fact Sheet—**[Evaluating Your Program](#)
  - **Fact Sheet—**[Mapping Community Resources](#)
  - **Fact Sheet—**[Planning Checklist:](#)
  - **Fact Sheet—**[Finding the Resources to Help Your Program Thrive](#)
  - **Fact Sheet—**[Publicizing Your Program and Its Successes](#)
  - **Fact Sheet—**[Using Data to Build Your Program](#)

### Collect Data

Reliable and regular data collection is a prerequisite for the prevention of gender-based violence, and for policy development and advancement. Statistics provide background knowledge for justice sector priorities and decisions and for the informed direction of state resources. The justice sector should have access to recent statistics on prevalence and incidence of cases of violence against women. Strategies to support and increase data collection include:

- Support standardized and regular collection of data on all forms of violence against women and girls. For accurate prevalence data, use population-based surveys, such as the [WHO Multi-Country Study on Domestic Violence](#) (World Health Organization, 2006); [International Violence Against Women Surveys \(Violence Against Women: An International Perspective\)](#) (IVAWS), Johnson et al., 2008) or the [Demographic and Health Survey Domestic Violence Module](#) (MEASURE DHS). For a link to the IVAWS survey instrument (Appendix IV) click [here](#). Many states use official statistics and individual accounts to support

conclusions on levels of crime victimization. For example, Canada collects data on police reports and investigations and regularly surveys individuals on their experience with violent incidents, whether or not they have reported a crime. (Sauvé and Hung, 2009).

- Obtain support from an academic or expert partner to conduct a population-based survey.
- Support the creation of state-run informational databases on incidences of violence for judicial and prosecutorial access. Databases should be disaggregated by gender, age, relationship, ethnic origin, type of violence, and location of violence.
- Develop unified and standardized methods for data collection, ensuring the validity and reliability of the information.
- Ensure that databases are available for country-wide use.
- Create perpetrator databases with information about prior convictions, previous orders for protection and violations of orders for protection, outstanding warrants, parole and bail conditions, sex offender data, no-contact orders and violations of no-contact orders, and any other court orders from other court systems, such as the family court. In order to protect women and girls, judges and prosecutors need access to as much information about the prior record of the perpetrator as possible.
- Confidential information about survivors of violence, especially names and addresses, should be omitted from any publicly accessible databases, to support victim safety.

### Tools for Data Collection

- ***Surveying Justice: A Practical Guide to Household Surveys*** (Himelein et al., 2010). [English](#)
- ***Challenges in Measuring Violence Against Women*** (Garcia-Moreno and Jansen, 2009). PowerPoint which discusses essential principles and challenges of measuring violence against women and offers tools and resources to practitioners. [English](#).
- ***WHO Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies*** (World Health Organization, 2007). [English](#) and [French](#).
- ***WHO Ethical and Safety Recommendations for Interviewing Trafficked Women*** (World Health Organization, 2003). Available in

[Armenian](#), [Bosnian](#), [Croatian](#), [English](#), [Japanese](#), [Romanian](#), [Russian](#), [Spanish](#) and [Serbian](#).

- ***Putting Women First: Ethical and Safety Recommendations for Research on Violence Against Women*** (World Health Organization, 2001). [English](#), [French](#) and [Spanish](#).
- ***Measuring Intimate Partner Violence Victimization and Perpetration: A Compendium of Assessment Tools*** (Thompson et al., 2006). [English](#).
- ***Violence Against Women and Girls: A Compendium of Monitoring and Evaluation Indicators*** (Bloom, 2008). [English](#).
- ***Demographic and Health Surveys, Measure DHS, DHS Domestic Violence Module*** (Demographic and Health Surveys, Measure DHS). [English](#).
- ***DHS FGC Module*** (Demographic and Health Surveys, Measure DHS). [English](#).
- ***Researching Violence Against Women: A Practical Guide for Researchers and Activists*** (Ellsberg and Heise, 2005). [English](#) and [Spanish](#).
- ***The Domestic Abuse Information Network Database*** (Domestic Abuse Intervention Programs, USA) is a Microsoft Access database programme designed for use by domestic abuse agencies. It assembles the information necessary to track and monitor domestic assault related cases in a coordinated community response to domestic violence. The database can evaluate demographic data, number and types of arrests, case processing time, case dispositions, and re-offenses, as well as analyze police, court, and offender programme records and more. Reports show trends in the system and can help to determine policy or procedural changes that might need to be made. Screens include offender and victim demographic information, law enforcement events with corresponding details on risk factors, criminal court hearings and probation actions, civil court hearings and protection orders, and participation in offenders' programmes. To order via mail, click [here](#). To order online, click [here](#).

### ***Provide Training on Human Rights and Gender***

Training for public officials in general should include:

- Regular and institutionalized gender sensitivity training and capacity development on violence against women;
- Specific training and capacity development when new legislation is enacted; and

- Development and consultation with NGOs and service providers in the process of training development. Source: (United Nations Department of Economic and Social Affairs, Division of the Advancement of Women, 2010).

### **CEDAW Committee Supports Training on Violence against Women**

In [Vertido v. The Philippines](#), the first case on rape decided under the [Optional Protocol](#), the [CEDAW Committee](#) found that the Philippines violated the plaintiff's rights under [CEDAW](#) and recommended that the Philippines pay appropriate compensation. The Committee recommended that several measures be implemented to improve the judiciary's handling of rape cases and its discriminatory attitudes towards women, including requiring regular training on CEDAW, especially [General Recommendation 19](#), and training for judges, among others, on the dynamics of criminal sexual assault so that they can make objective decisions and avoid re-victimizing survivors.

Source: CEDAW Committee. 2010. [CEDAW/C/46/D/18/2008](#).

Tools:

- ***Training Programme on Combating Violence Against Women*** (Women Against Violence Europe, 2000). Contains specific modules for law enforcement, judicial professionals, medical professionals, and psychosocial professionals. Available in [English](#).
- ***National Initiatives and Training Innovations to Address Gender Justice and Gender-Based Violence*** (Avon Global Center 2010 Women and Justice Conference). See the [Video](#).

## **Planning for judicial training**

Training judges requires careful planning in order to create programmes that are useful and interesting to judges.

### ***Creating the infrastructure for training***

- Determine the existing knowledge base through written questions or discussions with each level of judiciary.
- Create regular trainings on existing law and policy requirements.
- Establish and publicize trainings when new legislation is enacted and new policies are promulgated.
- Require participation in the training course for continued judicial license, if applicable.

- Plan separate training sessions for each level of the judiciary. In some very hierarchical contexts this is especially important, since judges may not participate in joint sessions with lower-level judicial staff.
- Place an introductory level version of the training in the judicial academy.
- Use a “train the trainers” approach to maximize results- core trainers can train more trainers or more judges.
- Use internet technology such as websites for sharing information and answering questions.
- Identify cases of gender-based violence as “specialized” cases for which judges must undergo training before being qualified to hear. Qualification, with attendant raise in pay, may result in more judges receiving training on these issues and less reluctance on the part of judges to receive training.
- Require training on gender-based violence issues for all court clerks and administrative personnel.

**Tool:**

- **Terms of Reference: Consultant to develop a baseline** (UN Women Southern Africa and Indian Ocean Islands Sub Regional Office, 2010). [English](#). A UN Women programme sought a consultant to create a baseline of information on capacity needs, training modules, monitoring, and evaluation and recommendations in building capacity for judges and other legal professionals.

**Develop objectives**

Objectives articulate what participants will gain from the training. The content of the objectives will be elaborated in the curriculum. Publicize concise, current, and contextual objectives in your course registration and publicity materials so that judges can identify what they need to know or improve upon and will attend your training to gain this knowledge.

**USA – Sample Training Objectives for Judges**

Sample objectives for a judicial training on Practical Courtroom Exercises for domestic violence cases:

*As a result of this training, you will be better able to:*

- *Assess your current knowledge about the dynamics of domestic violence and how to handle domestic violence cases.*
- *Practice ruling on realistic, hypothetical domestic violence cases.*
- *Identify factual, legal, procedural, and resource issues that arise frequently in domestic violence cases.*

- *Determine how domestic violence negatively affects the victim, perpetrator, and the children.*

Sample objectives for a judicial training on Victim and Perpetrator Behavior in domestic violence cases:

*As a result of this training, you will be better able to:*

- *Describe the context of violent behavior and patterns of behavior conduct.*
- *Select effective batterer intervention and accountability mechanisms.*
- *Evaluate the impact of domestic violence on adult victims and children who are exposed to violence.*
- *Assess decision-making and courtroom presentation of victims and perpetrators.*

Sample objectives for a judicial training on Receiving and Evaluating Information in domestic violence cases:

*As a result of this training, you will be better able to:*

- *Evaluate the facts before you rule.*
- *Assess the dangerousness of specific batterers.*
- *Apply an understanding of domestic violence to judicial fact-finding.*
- *Identify and resolve evidentiary issues of primary concern to judges.*

Sample objectives for a judicial training on Decision-Making Skills in domestic violence cases:

*As a result of this training you will be better able to:*

- *Identify common decision-making points in civil and criminal cases where an understanding of domestic violence might affect how you make decisions and what you decide.*
- *Draft and issue effective protection orders that (a) stop violence, (b) protect adult victims and children, (c) require appropriate batterer treatment, and (d) facilitate enforcement in criminal and civil domestic violence cases.*
- *Assess the impact of domestic violence on cases involving custody and visitation issues.*
- *Evaluate batterer intervention programs and information regarding appropriate treatment/intervention options.*
- *Identify the potential benefits of conducting review hearings in conjunction with probation services to monitor batterer conduct in domestic violence cases.*

Source: Jennifer White, Attorney for Legal Programs, Family Violence Prevention Program, USA.

### ***Develop the curriculum***

Once you have developed objectives, plan how to elaborate and illustrate them, using case studies, power points, role plays, lectures, and group discussions. Each segment of the curriculum should conclude with a concise reiteration of learning points. Strategies to develop the curriculum include:

- Involve members of relevant ministries such as women and family, interior, or security in the course planning.
- Obtain input from NGOs and service providers on course development. This will provide input from those who understand the issues relating to serving survivors of violence, and it will enhance trust between the judiciary and these groups.
- Obtain input from survivors in all training programmes, as they can best speak to survivor needs.
- Work to obtain adequate funding to create quality materials and hire experienced trainers and consultants.
- Field test training sessions on judicial representatives and incorporate their feedback.
- Obtain the approval of the highest level of the judiciary on the curriculum and publicize this approval to potential trainees.
- Regularly attend international or regional conferences on judicial training in order to learn best practices and new ideas to incorporate into the curriculum.
- Hold regular curriculum review sessions to ensure that content is still relevant and meeting objectives.

#### **Creating a judicial educational programme plan:**

1. Convene a meeting of key stakeholders. Include several judges, attorneys who practice in the area of violence against women, law enforcement personnel, mental health professionals, and experts on the topic to be addressed, for example, experts on the right to visitation in domestic abuse cases.
2. Brainstorm with these stakeholders and create a needs assessment on what judges need to know in the specific subject area. Cover all of the factors that a judge needs to know about the subject. This brainstorm can be done by telephone, e-mail, or in person. It is important to record all thoughts as this is extremely helpful in creating a programme.
3. Prioritize a list of topics created from the brainstorm. Some will be able to be subsumed under others.
4. Create achievable learning objectives. This will provide direction for the curriculum which is to be developed. For a sample summary of learning objectives, click [here](#).



5. Create learning outcomes, or 5-8 key ideas which you want judges to know after an exercise. For example, you may want them to be able to identify the ways a batterer can continue to abuse an ex-spouse through the supervised visitation process by showing up when the ex-spouse is scheduled to be at the site. The key idea is that batterers can use the court-supervised visitation to stalk victims.
6. Create a learning module which is a bridge from the learning objective to the learning outcome. This is the structure of the curriculum.
7. Plan the curriculum around the functions of a judge: to do fact-finding and make decisions. Base your exercises on these functions. For example, after a lecture on the dynamics of violence against women, plan an exercise on fact-finding and an exercise on issuing a decision in a case of gender-based violence.
8. Make the exercise concrete and relevant to their experience i.e., level of judiciary. Abstract lectures alone will not suffice. Work from real-life cases. Present these to judges, ask them how they would rule, and then give them a mini-lecture to drive home the point.
9. Principles of adult learning emphasize that adults must internalize the information and make it their own in order to retain it. Therefore, structure interactive exercises as follows:
  - a. Present the information.
  - b. Give the judges an opportunity to work out the problem as a group.
  - c. Give them some confirming points to think about, including suggestions for best practices.
  - d. Do not tell them what to do; give them a chance to work the issue out with each other first. Often the points you want to make will be made for you by their peers in the room, which is very powerful.
10. Use a variety of types of exercises such as role plays, lectures, Q & A sessions, and small or large group case exercises.
11. Always employ a judge to deliver any “live” presentations, including exercises and lectures. Judges learn best from their peers. For example, even if an expert on child development is speaking, it is important to have a judge make the introductory and concluding points that support the words of the speaker. Team teaching is an important part of judicial training.
12. Begin the session with an exercise that combines intellect with empathy: for example, ask the judges to assume the role of a battered woman. Give them a series of incidents that occur in her life that they must react to as if they were that woman. Require them to make the decisions in silence, and to indicate their decisions by walking around the room to various stations: apartment, shelter, homeless shelter, school, etc., in response to succeeding circumstances announced by the trainer. The point of the exercise is to give the judges a chance to think about the real experiences of victims so that they will make better decisions about her safety. Another exercise would show the experiences a victim might have when entering court, depending on how court clerks treat them, what happens when the abuser enters the courtroom, the importance of judicial demeanor, etc. The point of the exercise is to lessen the chance that a victim will be re-victimized by a judge.

13. Always debrief the judges after a session of role-play. Allow them a chance to talk about their feelings and the challenges these situations present in real life. It is very important to ask them: How does this apply to your role as a judge? Judges may say that they never before realized what victims endure.
14. At the end of the training, ask the judges what is the most important thing they learned at the training and what they will do differently now that they have learned that.
15. After the training, give the judges a checklist to take away. They generally don't have time to read more. They will use this checklist as a tool, like a [bench guide](#).

### ***Evaluation strategies:***

- Use a pre-session questionnaire to evaluate the level of knowledge of the participants. Use the knowledge you gain from this in programme planning.
- Ask the judges to evaluate each session of the programme in a brief form before they leave the room.
- Six months after the training, send the judges a brief survey (ideally online). Link the pre-session evaluation questionnaire, the evaluation done at the end of the session, and the post-session final survey by an identification number so that you can see how each individual has progressed.

Source: Jennifer White, Attorney for Legal Programs, Family Violence Prevention Program, USA (Interview, November 18, 2010).

### **Other classroom strategies:**

- Provide examples that are tailored to the context of each level of the judiciary.
- Provide materials for use outside the classroom in checklist form for ease of use.
- Expect that traditional beliefs may impede progress until trainees are convinced of the importance of the training mission.
- Provide advanced training after trainees take basic course levels (UNFPA, 2008).

### **Foundation for content-related strategies**

The following strategies establish a foundation for all judicial trainings on violence against women:

- Convey message that all violence is unacceptable.

- Educate on message of gender equality. Incorporate social context training into all judicial training programmes. Judges should be aware of the systemic inequality faced by women.
- Make connection between a fair and approachable court and improved reporting rates of violence.
- Make connection between sanctions and a culture of accountability.
- Train on victim psychology and the dynamics of domestic violence. See: [Sexual Assault](#) section and [Domestic Violence](#) sections of Knowledge Module on [Legislation](#).
- Require diversity and sensitivity training to complement training on laws. For example, see the [Jurisprudence of Equality Program](#) by [The International Association of Women Judges](#).

Example: the [National Judicial Institute of Canada](#) has created ongoing sensitivity training for judges who work on cases involving sexually abused children: *“Education initiatives relevant to the needs of victims within the criminal justice system form an integral part of the NJI's curriculum. For example, since its inception, the NJI has strongly emphasized sensitization programs, in such areas as violence against women and children. This type of sensitivity training was expanded in 1997 when the NJI launched a three-year Social Context Education project. The program includes judicial education designed to improve the capacity of the judiciary to deal in an appropriately sensitive manner with issues such as violence against children that may arise in matters before the courts.”* See: [Educating the Judiciary About the Needs of Victims](#).

- Train judges to apply [international standards](#) and laws in domestic cases to further gender justice.

### ***Tips for training judges***

#### *Strategies to increase judicial attendance:*

- Partner with national judicial councils for logistics, marketing plans, and expertise.
- Partner with government departments and ministries with expertise in the subject area.
- Partner with funders of judicial training to obtain funding for judges to attend.
- Publicize programmes through gatekeepers for judicial attendance, such as court administrators.
- Offer to assist specific judges to obtain funding to attend trainings.

- Build relationships with key judges and ask them to encourage their peers to attend trainings.
- Offer judges credit for continuing education for each session. Give them a certificate after the session that they can show the court administrator.
- If judges object to attending trainings on violence against women because it might make them appear biased in favor of victims, provide relevant links to Model Codes on Ethics for their country. For example, the [American Bar Association Model Code on Judicial Conduct](#) supports judicial attendance at subject-specific conferences.
- Offer trainings of differing lengths: 3-day introductory seminars, shorter advanced sessions, or one-day roundtables with several experts on emerging issues in violence against women, such as batterer intervention programmes or custody issues.

### **Argentina – Judicial Officials Trained on Gender Equality & Women’s Rights**

The Women’s Office of the Supreme Court of Argentina and the Office on Domestic Violence have initiated a programme to train gender facilitators within the judicial system on gender equality and women’s rights. The facilitators then hold gender justice workshops for judges, prosecutors, court officials, and administrative employees. The programme was initiated when women judges noted serious inequalities in previous judicial decisions. This is the largest and most innovative programme of gender training in the region to date and is expected to be a model for Latin American countries.

Steps for programme implementation included:

- Effective facilitators were selected based on skills and career record.
- Experts on justice and gender prepared training modules on theory and practice for facilitator use. Modules included both reading and audiovisual materials.
- Facilitators reviewed tools and women’s human rights instruments which establish women’s right to equality.
- Facilitators participated in exercises on gender-based roles in society.
- Facilitators were trained on sexist language and how to avoid discriminatory terms.

Source: Valente. 2010. [Pioneer in Mainstreaming Gender Perspective in Justice System](#).

### **Thailand – Increasing Sensitivity to Violence against Women and Girls**

*Changing people’s perceptions and attitudes*, a project to increase the capacity of the judiciary in Thailand, was implemented when monitoring Thai Supreme Court decisions indicated that gender bias may have played a role in cases of gender-based violence. After a judicial colloquium disseminated the monitoring results, trainings were conducted by the administrative branch of the judiciary, the National Human Rights

Commission, and a Thai NGO, the Teerarat Kanjauksorn Foundation. A model domestic violence court was created in the Thai criminal justice system, including new “women-friendly” guidelines. *Changing people’s perceptions and attitudes* is an interactive curriculum which incorporates a theatrical production with an international human rights framework and trainings on gender-based and domestic violence. The production stimulates discussion on improving the response to women and girl survivors of violence. It portrays the journey of four survivors as they seek justice in the Thai system, including their personal humiliations and their experiences in unfriendly courtrooms with hostile defense attorneys. The play, “Little Dots, and I Do Hope,” was enacted by a professional theater group called Bai Mai Wai, or Moving Leaf. The final act of the play incorporates themes from previous group discussions, detailing concrete ways to avoid re-victimizing survivors. Other court systems in Thailand are now using the curriculum to train judges and court staff.

For more information, please contact Ms Supatra Putananusorn at [supatra.putananusorn@unifem.org](mailto:supatra.putananusorn@unifem.org).

### ***Training for Criminal and Civil Cases***

Judicial training should focus on both criminal and civil cases, and should be mandatory for judges in a variety of legal settings including those handling family law matters, immigration, and employment issues. Although violence against women cases are often criminal in nature, civil law is frequently involved. In certain countries, sexual harassment cases are almost all civil in nature. Domestic violence and dowry violence cases also involve significant civil components, including protective orders, divorce, and custody issues. Trafficking cases often involve separate immigration proceedings. Judges, prosecutors, and other court personnel in all of these areas need specialized training.

### **USA – Judicial Training on Domestic Violence**

The [National Council of Juvenile and Family Court Judges](#) has been a leader in training judges in the juvenile and family court setting to effectively respond to family violence cases. The organization developed [The Greenbook](#), a benchbook on effective intervention in family violence cases, which has been endorsed by the U.S. Attorney General. Under [The Greenbook Initiative](#), the Council also worked with six demonstration sites nationwide to undertake a coordinated community response (CCR) approach to implementing The Greenbook recommendations. The use of The Greenbook and the effectiveness of its guidelines were evaluated in each site, leading to the development of lessons learned and new tools from courts, advocates, and service providers across the United States. The evaluation reports and tools are available on [The Greenbook Initiative](#) website.

The US Family Violence Prevention Fund's [Judicial Education Project](#) provides judges at all levels with the education, guidelines, materials, and online resources they need to provide effective help to victims of family violence. The project helps judges learn fact-finding and decision-making skills, and to make the best possible decisions in support of women and children facing violence.

In partnership with the National Council of Juvenile and Family Court Judges, the Judicial Education Project offers a [National Judicial Institute on Domestic Violence](#) to help judges develop or enhance their skills in handling a wide range of criminal and civil cases involving domestic violence. The seminars provide information on the dynamics of domestic violence and related issues, as well as practical advice on how to handle all aspects of these complex cases fairly and effectively, through interactive activities.

To date, over 1,000 judges from across the nation have participated in the NJIDV's three-day education workshops, returning to their communities with a much greater understanding of domestic violence, improved tools for handling the nuts and bolts of legal issues, and a stronger sense of the formidable role they can play in and out of the courtroom to help victims achieve safety, obtain support, and realize autonomy.

### ***Training on New Legislation***

When new legislation is passed, judicial training should be implemented directly in concert with all judicial system actors. The following example from Albania illustrates a strategy for training stakeholders to implement a new law.

#### **Albania – Developing capacity to implement new domestic violence law**

The 2006 Albanian law [On Measures Against Violence in Family Relations No. 9669](#) gave responsibility for implementing the law to several ministries within the Albanian government, and called for cooperation among stakeholders such as police, shelters, courts, prosecutors, and social service agencies. The Women's Legal Rights Initiative developed a series of strategies to create capacity for a coordinated community response, including:

- Conducting a preliminary training for key policy makers before the law was adopted.
- Identifying those who would be responsible for the law's implementation or who would have influence over the implementation.
- Conducting a specialized training for key implementers on their responsibilities under the law and on best practices from other states.
- Selecting a core group of especially enthusiastic implementers for a 3-phase consultancy: (1) Reviewing roles and responsibilities with Ministry officials to prepare them for their role in the law's implementation, meeting with supervisors to ensure Ministry support, exposing officials to protocols from other countries to review and adapt to Albanian country context, and gaining support of police trainers to include domestic violence issues in curriculum and to incorporate domestic violence offenses into police forms and data banks, (2) Reviewing progress on protocols with each core group member and involving a local NGO

on public awareness and lobbying strategies, and (3) Continuing review of protocols and imparting practical information on the implementation of a domestic violence law and conducting workshop at which the participants reviewed the protocols.

**Tools:**

*The Albanian Benchbook for Protection Orders* (The Women's Legal Rights Initiative, 2006). [English](#) and Albanian. Developed to guide judges as they began to issue protection orders.

Protocols were also developed for [police](#), [prosecutors](#), [social workers](#), [health professionals](#), and [NGOs](#).

*Creation of a Community Coordinated Response Team Against Domestic Violence* (Chemonics International Inc, 2006). [English](#) and Albanian. Implementation guidelines for government ministries and NGOs.

Source: USAID. 2007. [The Women's Legal Rights Initiative](#).

*Trainings Should Become Part of Regular Curriculum*

**Nepal - Gender Training in Standard Curriculum for Judges and Lawyers**

In 2006, Nepal adopted a series of justice sector reforms, including [gender mainstreaming](#) in the judiciary. Judges and lawyers now receive [standardized training](#) concerning gender issues and international human rights instruments that have been signed by Nepal. In the past, legal personnel attended piecemeal trainings concerning gender but did not have a uniform training module. With assistance from the UNDP's *Mainstreaming Gender Equity Programme*, a curriculum was developed and disseminated by the National Judicial Academy. Incorporating gender issues and human rights instruments into the standard training for judges and lawyers is expected to increase judicial capacity to make gender responsive decisions and increase female representation in the justice sector.

Download the Training Resource. Available in [English](#).

Source: United Nations Development Programme. 2006. [Women's issues now part of legal training in Nepal](#).

*Training Should Begin in Law School*

**Albania and Liberia- Law school coursework on domestic violence**

The Women's Legal Rights Initiative partnered with the Magistrates School of Albania, which trains future judges and prosecutors, to sponsor and provide financial support for

the integration of coursework on domestic violence, trafficking in persons, and gender sensitivity into the curriculum. After two years, the school made the coursework part of its permanent curriculum. Students now receive 14 hours of instruction on domestic violence issues alone, including topics such as legal and judicial aspects of domestic violence and family law and the role of prosecutors in these cases.

See [Women's Legal Rights Initiative: Final Report](#) and a brief [video](#) describing the project. [here](#)

See an American Bar Association Rule of Law Initiative [video](#) on Judicial Reform through Legal Education in Liberia.

### Training for Judges around the World

**UGANDA:** In Uganda, the National Association of Women Judges (NAWJ) has worked with the judiciary on using international instruments when deciding cases involving discrimination or violence against women. “Judicial officers who have attended the training have observed that it has improved their ability to detect gender bias and deliver gender sensitive judgments.” Amnesty International. 2010. [I Can't Afford Justice: Violence Against Women in Uganda Continues Unchecked and Unpunished](#).

**SPAIN:** Spain's [law](#) on gender-based violence requires that judges who hear Orders for Protection receive training on issues of child custody, security, and economic support for survivors and their dependants. And, all employees of Spain's specialized Violence against Women courts, from judges to court clerks, must receive training on issues of gender violence which focuses on “the vulnerability of victims.” Article 47

**GLOBAL:** The [International Association of Women Judges](#) (IAWJ) conducts judicial education programmes for judges and magistrates in five countries in Latin America and in Africa. Through their Jurisprudence of Equality Program (JEP), they provide training for members of the judiciary on the application of international, regional, and national laws on discrimination and violence against women. The IAJW states that JEP-trained jurists have established a track record of issuing judgments striking down discriminatory laws and practices, and they have expanded the rights of women on issues ranging from economic discrimination, property rights, custody, inheritance, sexual assault, and all forms of violence against women. More than 2,500 judges have taken part in JEP training in 21 countries. Many JEP-trained judges credit the programme with alerting them to the nature and scope of domestic violence and gender discrimination; to biases and stereotypes that sustain these biases; and to more effective and sensitive ways to question witnesses. In Zambia, IAWJ developed “feedback loops” to document and track the responsiveness of the court system to women victims of violence in order to discern the actual barriers between women and justice.

The [Women's Initiative for Gender Justice](#) (WIGJ) is an international women's human rights organization focused on ensuring that the [International Criminal Court](#) (ICC) advances gender justice through its operations. The WIGJ has conducted a series of



gender training for ICC judges, prosecutors, and staff. To support this effort, WIGJ has published three [handbooks](#), which contextualize violence within a gendered perspective, discuss the ramifications of sexual violence and provide relevant legal background in regard to gendered violence. WIGJ has also worked to improve gender diversity within the ICC by recruiting women for available positions and advocating for their election and/or appointment.

### Tools:

- ***In Her Shoes: Living with Domestic Violence*** (Washington State Coalition Against Domestic Violence). Simulation tool in which participants move, do, think, and experience the lives of battered women; for community and professional groups. [English](#) and [Spanish](#).
- ***In Her Shoes: Economic Justice Edition*** (Washington State Coalition Against Domestic Violence). Available in [English](#).
- ***In Their Shoes: Teens and Dating Violence*** (Washington State Coalition Against Domestic Violence). Available in [English](#).
- ***Walking Wisdom*** ([Sakshi NGO, India](#)) English. A toolkit with several visual tools on transforming judges and judicial education. Some of the topics include: Understanding Women's Reality, Impact of Inequality, Myths and Stereotypes, and Judicial Perceptions. Uses real-life situations to illustrate tools for fair decision making. To order contact [sakshipaths@yahoo.com](mailto:sakshipaths@yahoo.com)
- ***Guía de capacitación para operadores y operadoras de justicia: Género, acceso a la justicia y violencia contra las mujeres*** (CLADEM, 2008). [Spanish](#). This training guide is composed of three units. Each one contains a presentation of the principles and the essential concepts. It includes texts and audiovisual content which:
  - Raise awareness about domestic violence, human rights of women, and the lack of reporting.
  - Reflect on the international and national normative framework on matters of domestic violence and its practical application in the administration of justice.
  - Promote the appropriate application of the specific legislation to concrete cases of violence as the principal means for the construction of a world more just, egalitarian, and equitable.
- ***Manual for a Three Days Training for Media, Legal, and Education*** (Christian Empowerment and Sustainable Program, 2008). Designed for use with key sectors, including the justice sector, to inform its response to gender-

based violence, sexual exploitation, and abuse issues in Liberia. Available in English.

- ***Civil Protection Orders: A Guide For Improving Practice*** (National Council of Juvenile and Family Court Judges, USA, 2010). [English](#). Provides guidance for advocates, attorneys, judges, law enforcement personnel, and prosecutors to help ensure that protection orders are effectively issued, served, and enforced.
- ***A Judicial Guide to Child Safety in Custody Cases*** (National Council of Juvenile and Family Court Judges, 2009). [English](#). Child custody cases involving abuse have complicated issues of safety and access. The Judicial Guide contains 14 bench cards for judges in child custody cases, as well as a supplemental guide which provides additional information about in- and out-of-court behaviours, best interests of the child, and order issuance and enforcement.
- ***A Guide for Effective Issuance & Enforcement of Protection Orders*** (National Council of Juvenile and Family Court Judges, USA, 2005). [English](#). Gives communities and professionals precise tools and strategies to broaden the effectiveness of protection orders. Contains a section on Data Systems and State Registries.
- ***Navigating Custody & Visitation Evaluations in Cases With Domestic Violence: A Judge's Guide*** (Dalton et al., 2006). [English](#). Some US judges rely on professional custody evaluators to inform their decisions on child custody and visitation issues. This tool helps judges to interpret and act on these evaluations when domestic violence is involved in family law cases. It includes four bench cards and supplementary materials.

### ***Training strategies for prosecutors and prosecutor staff***

In almost all countries, prosecutors are very powerful individuals. Programmers who plan trainings for prosecutors and prosecutor staff should implement careful strategies to promote attendance and a readiness to learn on the part of prosecutors.

Creating the infrastructure for training:

- Consult with prosecutors in national associations [internal link to tools with lists of prosecutor associations] to obtain experts in specific subject areas. Develop curriculum based upon new laws, protocols, national strategies, or policies.
- Work to enable prosecutors to attend trainings on violence against women. There are far fewer prosecutors than police or judges, and in smaller jurisdictions there may be only one or two prosecutors on duty. It may be hard for them to get away, and the district may limit their travel funds. Provide grants with travel expenses, if possible. Find a private attorney from the same area who can cover basic court

appearances so the backlog won't grow too great during the training. Ask prosecutors, "How can we bring you this training?"

- Provide prosecutors who can't come to the training with webinars. Webinars, or web-based trainings, contain most of the content, some opportunities to ask questions, and are free-of-charge or available at the cost of a long-distance call. For example, the [National Center on Domestic and Sexual Violence](#), USA, offers a list of [Upcoming Trainings, Webinars, and Events around the Country](#) and a list of [Ongoing Virtual Opportunities](#).
- Be sure that all hours of training provide prosecutors with credit for continuing education, if applicable. Partner with lawyers in each training if so required for credit; prosecutors prefer to be trained by peer lawyers in any case.

Foundation for prosecutor training programme planning:

The following strategies establish a foundation for prosecutor trainings on violence against women and girls

- Conduct training on human rights in general and especially on women's human rights.
- Conduct training on dynamics of violence against women and girls, including sexual violence, dating and domestic violence, and stalking and harassment.
- Conduct training on specific myths of gender-based violence, such as the myth that women often falsely accuse men of rape or domestic violence.
- Reinforce training on the overall context and patterns that characterize crimes of violence against women: it is often perpetrated by someone known to the survivor; it may involve little or no physical force; and it may not be reported immediately.
- Conduct training on how the dynamics of domestic violence affect prosecutor decisions; for example, the history of violence between the parties and the level of fear expressed by the victim should be part of the charging decision.
- Educate prosecutors and prosecutor staff on sensitive ways of interacting with survivors and their families.
- Educate prosecutors and prosecutor staff on how survivor experiences may affect their ability or willingness to participate in the prosecution.
- Improve prosecutor and staff knowledge of and access to community resources for survivors.
- Conduct training on prosecutorial techniques which incorporate the dynamics of violence against women and the dynamics of intimate partner violence.
- Train prosecutors on best practice standards of child custody decisions in intimate partner cases. Prosecutors often want to somehow place the victim under the court's jurisdiction, even if the case started with the arrest of the batterer. They may say, "I care about the kids" and will condone child protection services pressuring her into counseling, and there could even be talk of charging her with witnessing violence to a child.

- Inform prosecutors about the fact that when survivors choose to remain with the abuser or opt for alternative resolution methods, social services often removes the children from the survivor's care. Prosecutors should work with social services agencies to ensure that survivors do not lose custody unjustly.
- Train prosecutors on absent-victim prosecutions. Acknowledge their frustration with investing resources for little or no return in some cases and acknowledge that there are no easy answers to this problem. Absent-victim prosecutions may require more a thorough collection of physical evidence, photos, and reproductions of emergency calls, for example, depending on rules of evidence. There are far more third party domestic violence calls with the advent of cell phones: neighbors, drive-bys, workmates, and the general public have more education on domestic violence. Prosecutors can work with police on documenting the testimony of these witnesses so that it is usable in court.
- Train prosecutors in case management techniques such as scheduling, budgeting, and monitoring so that prosecutors can be effective and efficient.
- Educate prosecutors and staff on the often weak rates of success for batterer intervention and other offender programmes such as alcohol treatment or anger management programmes, and on the [evidence-base](#) of better practice in these programme areas, including what works best for certain perpetrators.
- Educate prosecutors and staff on relevant laws on firearms, protective orders, child custody and support, divorce, and other laws that may impact survivors of violence.
- Educate prosecutors on ethical considerations in prosecuting cases of violence against women and girls.
- Educate prosecutors and staff about evolving best practices in violence against women prosecution strategies. For example, sentencing alternatives for violent offenders remain problematic in many countries, and new areas of concern in intimate partner violence, such as attempted strangulation and dual arrest, continue to develop. Prosecutors in limited resource areas can make use of websites hosted by prosecutor associations which will take questions and provide resources upon request.

### ***Creating an effective prosecutor educational programme***

Begin trainings on prosecutor techniques in violence against women cases with a session that acknowledges the resentment that most prosecutors feel towards victims.

- Divide large groups into 3 or 4 rooms with faculty facilitators.
- Present 3 difficult scenarios. For example, the case of a battered immigrant woman who does not speak the dominant language, is afraid to prosecute, and goes into her native community to hide, where the prosecutor cannot find her. Another example could involve a victim who testifies differently on the witness stand than in the police report. Give them 30 minutes to constructively vent. Ask open questions such as “What would you do in this situation?” or “How is this playing in your district?”

- This gives the prosecutors the opportunity to vent without expecting to be trained, and drains off some of the negative energy around prosecutor experiences with victims of violence.
  1. Meet with facilitators after opening exercise to identify persons with negative attitudes toward training or themes that need to be highlighted.
  2. Have faculty sit with prosecutors at small round tables at lunch and dinner to discuss issues raised during the seminar. Model attitudes for the prosecutors, and provide a safe and trusting environment for them to talk.
  3. Give prosecutors a chance to introduce themselves and say 2 things they are hoping to come away with and 2 things that they are most frustrated by. This gives the faculty another opportunity to talk about negative attitudes in a respectful manner.
  4. Use videos of movie clips that show scenes of violence or domestic violence which present the story from the victim's viewpoint in order to teach prosecutors to see violence against women in a just way.
  5. For every 90 minutes of lecture on new laws or techniques, do an interactive session such as role-play or Q & A. In addition, make some sessions wholly interactive.
  6. Develop case studies based upon learning objectives. Present one fact situation per day, but keep adding facts to the scenario. Use only 3-4 fact situations per week of training.

### ***Using case studies in training prosecutors***

- Provide real cases as examples to develop prosecutor skills. For example, use a real police report that says that both parties used violence, both admit to using violence, and both have injuries.
- Ask prosecutors what they would do based on the police report and what other evidence they would like to have. Then, when they bring up things like emergency calls, medical reports, etc., hand out the real emergency call transcript, the real medical report, etc. With this new information, the prosecutors get a different picture: the victim called the police, terrified, saying that he was hitting and choking her. Or maybe she called while he was breaking into the house and it took police 45 minutes to get there.
- Use other pieces of information as the discussion develops, such as the statement of a victim advocate, the police and prosecutor record of prior complaints, etc. The prosecutors usually change their initial assessment of the case based on this information, and it drives home the point that all of these pieces are really important to the case.
- Remind prosecutors that everything they see is produced by someone else: the police report, the transcript, etc. The prosecutor is the only person who is the recipient of all of these pieces of information, and they have to make their decisions based on what is presented to them. Make this point: **If you ask for other pieces of the puzzle, this will inform how you approach cases and how you handle them and there will be greater justice for victims.**

### **A Sample One-Day Training Agenda on “Bringing a Domestic Violence Case to Trial”**

**30 min: Introduction:** Introduce yourself and partners. Ask audience to introduce themselves and identify their office, experience level, what they hope to learn today, what the most pressing problems faced by their office are.

**15 min: Outline** community needs and expectations of prosecutors. Briefly discuss applicable criminal domestic violence laws.

**15 min: Discuss** the effect of the dynamics of domestic violence on prosecutions: Understanding her reluctance to testify and the possibility that she might recant. Use case studies of intimidation techniques, i.e., jailhouse calls, threats to other family members or pets. Discuss how to reconcile respect for victim wishes with prosecutor duty to protect society from violence. No easy answers!

**30 min: Discuss** most important guiding principle: do not contribute to the re-victimization of the survivor. Obtain group input on ways that this could happen, for example: delays in investigating or charging the case, becoming angry, issuing ultimatums. How to reduce survivor withdrawal: Support her by ensuring that orders for protection are enforced, issue consequences if intimidation tactics are used, utilize support of advocates, expedite the case, don't say things like “YOU must press charges”- make sure she knows it is the state that is bringing the case.

**45 min: Plan** how to approach and investigate your case: Plan for an absent victim, even if you think the victim will testify. Develop physical evidence: photos of crime scene, victim, and perpetrator; and forensic reports. Include tapes of emergency and witness calls, and dispatch logs. Obtain records of excited utterances and statement of perpetrator and witnesses. Make a diagram of the incident.

**15 min: Break**

**15 min: Articulate** the advantages and challenges of vertical prosecution: improving your ability to argue the case (the one who charges the case does the arraignment, pre-trial, trial, sentencing, and post-sentencing hearings) vs. the case is driving you crazy!

**45 min: Unpack** charging decisions. Small group break-out: What do you need to charge a case? Analyzing resources and using case studies with different levels of evidence to illustrate effective charging decisions.

**30 min: Show** video of dual arrest scenarios, discuss effect upon survivors.

**60 min: Lunch or other break**

**60 min: Delve** into the complex issue of bail in domestic violence cases: the importance of focusing on victim safety. Refer back to intimidation techniques and the importance of [risk assessment standards](#) (hand out). Elicit group feedback on information which will be useful to a court in determining bail. Write all suggestions on white board or overhead.

Give the court as much information as possible: illustrative stories of offender's intimidation tactics, prior crimes of domestic violence, prior crimes involving weapons or threats, current use of threats or weapons, telephone or email harassment, availability of weapons, and victim's injuries. The court needs to know what factors make it less likely that the perpetrator will appear for future court hearings. Elicit suggestions: unemployment, duration of current employment, past failures to appear in court, past flights from officers, uses of false identities, where he is living and for how long, if he owns property in another country, etc.

**60 min: Discuss** tips to enhance victim safety and offender accountability:

- Involve advocates to provide continuous support to victims
- Contact victim as soon as possible and maintain regular contact
- Use the risk assessment often. Ask for victim input: is she frightened? Has anything changed, i.e., increase in threats, stalking, etc.
- Create a safety plan for the victim, the advocate, and yourself to prepare for defendant's reaction to criminal prosecution
- Take time to prepare her for court
- Assist with orders for protection and no-contact orders. Enforce them!
- Make a plan with the advocate about keeping the victim informed:
  - Craft careful and compassionate letters on declinations and dismissals
  - Decide who will contact her about each step: arrest, bail, charges, hearing dates and times, court decisions and sentencing hearings, opportunities for victim impact statements, parole, and what to do if OFPs or parole conditions are violated.
  - When delegating contacts to advocate, develop an ironclad method to keep the advocate informed!

**15 min: Don't re-victimize** the victim. Even if she recants or changes her story at the last minute, don't threaten her with perjury, contempt, or obstructing justice. Stay focused on her reasons as they likely reflect safety factors. (Allow attendees a chance to vent here. All prosecutors are frustrated with victim withdrawals.)

**15 min: Break**

**75 min: Foil the defense plan** to discredit or malign the survivor. Waiting until they say it and then objecting is not the best strategy; the judge or jury has still heard it and it may perpetuate stereotypes about victims of domestic violence that they already half-believe. Know what the defense lawyer might say by checking out his common practice, by asking the victim if the batterer has said anything to her about what to expect during the trial, or how he has defended himself in the past. Take note of what was said in plea negotiations or in passing.

If possible, use a *motion in limine* (a motion made at the start of a trial requesting that the judge rule that certain evidence may not be introduced in trial) to keep these statements out before they are made. It will support the victim's desire to cooperate if she knows that intimidation and humiliation won't be allowed in court, and it will help to lessen the control that the defendant has over her.

Know your rules of evidence and object strenuously and with particularity. Be prepared to ask for a mistrial with costs awarded if the defense oversteps. (Role play with egregious behaviour and questionable behaviour. Discuss.)

**15 min: Wrap up.** Thank them for coming. Offer to stay around afterwards to discuss questions.

Source: Adapted from materials provided by Rhonda Martinson, [Family Violence Prevention Fund](#), 2011.

### **A sample agenda for one-day Sex Trafficking Training for Prosecutors in Minnesota, USA**

15 min: Welcome

Basics for Building a Successful Prosecution Using the MN Law  
*Investigations - What evidence do you need? How can you get it?*  
*Basic preparation ideas for trial*

15 min: Break

45 min: Working with Victims to Prosecute Traffickers

*Understanding victim's trauma, needs and services:*

- *so prosecutors can work with them to build cases*
- *and better perceive them as victims so they can then present them as victims to the jury*
- *Highlighting trafficking of MN's native communities*
- 45 min: Working with Law Enforcement to Build a Case

*Understanding how law enforcement approach investigations, obtain evidence for prosecutors, communication with prosecutors to build a case*  
*Presentation of current investigations*

30 min: Cooperation Panel: (Law Enforcement, Service Providers, Prosecutors)  
*Discussion with presenters on how to cooperate to build cases – what works; what doesn't work; what exists for communication methods; what could be improved upon?*



60 min: Working Lunch: Case Studies in small groups  
*Identifying and investigating a sex trafficking case*  
*What evidence would you need? How would you get it?*  
*How would you prepare for trial? Any strategies?*

15 min: Case Study Results Presented to Large Group

120 min: Strategies for Prosecuting a Sex Trafficking Case Using Minnesota Law

Source: Adapted from materials provided by Beatriz Menanteau, Staff Attorney, [The Advocates for Human Rights](#), 2011.

### Tools for training Prosecutors:

- ***Understanding Sexual Violence: Prosecuting Adult Rape and Sexual Assault Cases: A Model Four-Day Curriculum*** (The National Judicial Education Program, NOW Legal Defense and Education Fund, in cooperation with The American Prosecutors Research Institute, 2001). Information on victim advocate/prosecutor relationship, tips on preparing for trial and working with forensic examiners and other experts. [English](#)
- The [International Association of Prosecutors](#) provides a newsletter, an E-Forum, and networking opportunities for members, among [other benefits](#).
- ***The Blueprint for Safety*** (Praxis International, 2010). Tools, protocols, and training memos for prosecutors in making charging decisions, working with victims, determining bail and pre-trial release, negotiating plea agreements and making sentencing recommendations in domestic violence cases. [English](#).

### ***Training paralegals***

Paralegals may receive on-the-job training at non-profits, law firms, or corporations, but are sometimes required to have some type of certification from an accredited paralegal programme. Many schools exist to train paralegals, as do online certificate programmes. It is important to research programmes carefully in each country to find ones that are reputable and reasonably-priced.

Paralegals must have a variety of skills, including legal skills such as drafting documents and taking statements; administrative skills such as record-keeping, filing, and computer skills; and “people” skills such as interviewing clients, counseling, and education.

### **Benin – Training paralegals to improve women’s access to justice under new family code**

In Benin, a new family code was adopted in 2004. Well-respected paralegals already existed in communities and they were tapped as an effective way to convey information on women’s rights under the new code to illiterate, rural, and poor women. The Women’s Legal Rights Initiative programme of USAID adopted these strategies to train the paralegals:

- Local NGO partners received technical and financial assistance to develop and provide paralegal training on women’s legal rights in general and on the new family code.
- The NGOs created a paralegal training manual together to ensure consistency.
- Paralegals made a commitment to educate their communities and to act as resources in order to attend the week-long training.
- Training was prioritized in rural areas.
- Additional classes were held for new paralegals on their role, the organization of the justice sector, and communications techniques.
- Role-plays enabled new paralegals to practice common scenarios with clients.
- Continuing education was made available to experienced paralegals on new requirements of the family code regarding child marriage, polygamy, and inheritance rights.
- A public awareness campaign on women’s legal rights was held in the same geographic area as the trainings so that women could discuss topical matters with the paralegals.

⇒ *The Benin Family Code Paralegal Manual* (The Women’s Legal Rights Initiative, 2005). [English](#).

⇒ For similar paralegal manuals developed under this programme, see [Guatemala](#) and [Lesotho](#).

Source: USAID. 2007. [The Women’s Legal Rights Initiative](#).

### **Lesotho – Training paralegals raise rural women’s awareness of legal reforms**

Lesotho has enacted laws which better protect women’s rights. For example, the [Sexual Offences Act](#) (2003) expanded victim’s rights in important ways, such as requiring the government to pay for medical examinations after assaults, requiring the prosecutor to orient the survivor to court procedures, and allowing survivor input into decisions on bail. In 2006, the [Legal Capacity of Married Persons Act](#) was enacted, which allows married women to own and inherit property, receive loans, and hold a job without her husband’s permission.

**Project:** The Women’s Legal Rights Initiative of USAID partnered with the Lesotho affiliate of the Federación Internacional de Abogadas (FIDA) to raise awareness of these legal reforms and advocacy programmes by **training paralegals in rural areas**.

**Strategies included:**

- Requesting local government and community leaders to nominate people to be trained.
- Screening nominees for suitability and reliability.
- Selecting influential members of the community as trainees (70% were women).
- Selecting trainees to ensure geographical and occupational representation.
- Training participants on laws which affect most people such as inheritance laws, rights of women in traditional marriages and common law marriages, and dissolution of property in divorce.
- Training participants on paralegal skills such as identifying legal issues and taking statements.
- Training participants to alert FIDA about cases which could be used for high impact litigation.
- Forming paralegal committees to work with FIDA on ongoing challenges faced by paralegals and to collect evaluation data.
- Requiring paralegals to submit reports and action plans for all cases to FIDA.
- Making field visits to gain information from focus groups in communities served by the paralegals.

See the paralegal manual used in [Lesotho](#).

Source: USAID. 2007. [The Women’s Legal Rights Initiative](#).

**Tools for Training Paralegals:**

- For information on paralegal training programmes worldwide, click [here](#).
- **Community Based Paralegals: A Practitioner’s Guide** (Open Society Justice Initiative, 2010). [English](#).
- **Community Paralegal Training Programme brochure** (Pacific Regional Rights Resource Team) [English](#).
- **Paralegal Training Manual** (Federation of Women’s Lawyers- Lesotho in collaboration with the Community Legal Resource Centre, 2000). [English](#).
- For a video entitled “*Is a Paralegal Career Right For You?*”. See a [video](#). Available in [English](#).
- See also a [video](#) entitled “A Little about Paralegal Careers”. Available in [English](#).

- ***Starter Kit for Setting Up a Legal Assistant (Paralegal) Programme*** (The [International Paralegal Management Association](#), 1991). [English](#).

### ***Training Victim Witness Advocates***

Many prosecutor offices throughout the world are recognizing the advantages to both the victim and the successful prosecution of the case in providing the victim with a victim witness advocate. In most countries victim witness advocates are funded by and housed in the court system itself. Effective victim witness programs reach out to victims, inform them of their rights and court processes, provide referrals to services, and accompany victims to court hearings.

### **Tools for Training Victim Witness Advocates**

The [US Office for Victims of Crime](#) offers a free-of-charge online training course for victim service providers. The module-style training “will provide professionals with the basic skills they need to assist victims effectively and sensitively.” It covers

- Goals and how to navigate through the online training
- Basic issues such as ethics and cultural competency that provide the foundation for victim services
- Characteristics, prevalence and other information about 14 types of crimes
- Core skills needed by victim service providers, such as establishing rapport, problem solving and crisis intervention
- Information about specific topics and skills needed to provide services to specific populations
- Information about and skills needed to collaborate with various types of systems, such as community-based, criminal justice-based faith-based, and reservation-based systems.
- Challenging situations faced by victim service providers
- For more information, see the [website](#).

- ***The Role of the Victim and Victim Advocates in Managing Sex Offenders*** (Center for Sex Offender Management, USA). A free-of-charge online curriculum with a victim-centred approach designed for collaboration between those who work in sex offender management and victim advocates. It contains modules for a two-day training with interactive exercises, slides, participant materials, and training strategies and techniques on the following topics: Understanding Sexual Assault from a Victim’s Perspective, Working With Sexual Assault Victims, Enhancing Victim Involvement in Sex Offender Management, and Strategies for Applying the Victim-Centered Approach. For more information, see the [website](#).

## Provide Rights-based Education and Awareness

Many women and girls are not aware of laws on violence against women, of their legal rights, or how to exercise these rights. “Legal awareness” is necessary for women in all nations so that they can affirmatively claim their rights. When NGOs provide legal awareness programs for women and girls, NGOs can benefit due to:

- Increased community trust in the NGO.
- Increase in use of NGO services.
- Valuable information obtained from new NGO clients (Bordat and Kouzzi, 2009).

Steps to improving legal awareness for women and girls include:

- Determine legal awareness needs of women and girls to more effectively target efforts and ensure greater participation. Surveys, women’s NGOs, and legal assistance clinics may be good sources of information on needs.

### Colombia – Legal Awareness Project Provides Hotline for Potential Trafficking Victims

In Colombia, a survey was conducted to determine what factors make someone vulnerable to human trafficking. It found that a victim might fit this profile:

- She will accept high levels of risk to pursue a job or a marriage.
- She is extremely eager to advance in her career in a short time.
- She is under pressure from her family and friends to improve her financial situation.

Based upon these results, the International Office for Migration (IOM) Mission in Colombia designed an awareness and prevention campaign which provided all Colombians with a hotline to support informed job offer decisions. Success was demonstrated by a 400% increase in calls to the hotline in just one year.

Source: [International Organization for Migration Mission in Colombia](#). 2006. [Dimensiones de la trata de personas en Colombia](#).

- Prioritize legal awareness programming based upon actual needs of women. Develop materials with input from local NGOs and women.

### CASE STUDY: Producing a Resource Manual on Violence against Women with Disabilities

A [report](#) by [Women With Disabilities Australia](#) (WWDA) describes the steps in planning and producing a resource manual on violence against women and disabilities:

1. Establish a project reference group made up of women with disabilities.
2. Develop the project plan.
3. Publicize the project and develop promotional flyers. For example, WWDA organized a systematic plan for distribution in every state and territory in

Australia, to disability organizations, educational institutions and to politicians. WWDA created a comprehensive electronic mailing list.

4. Develop the framework for the resource manual, based upon the needs of the individuals and the services required. For example, framework goals included an easy-to-handle end product that could be easily posted, and economically printed. The manual would contain:
  - Information on how women's refuges and crisis services could develop services and programmes for women with disabilities.
  - Information about women with disabilities tailored for service providers as well as the broader community.
  - An annotated bibliography of resource materials.
  - Stories, poetry, and artwork from disabled women who have experienced violence, including strategies to escape the violence. Examples of flyers soliciting input are included in the report.
  - A guide to services at the state/territory, regional, and national level.

Four books were developed for the Resource Manual: *More Than Just a Ramp; It's Not OK It's Violence; A Life Like Mine! narratives from women with disabilities who experience violence;* and *Forgotten sisters: a global review of violence against women with disabilities.*

The group also developed a feedback/evaluation form. Questions included:

- Is the language used in the manual easy to understand?
- What did you find most useful?
- Is there any area we haven't covered?

They gave careful consideration to producing the information in accessible formats, and consulted with Vision Australia, a leading provider of blindness and low vision services. The Resource Manual is available in the following formats:

- CD Audio Master
- Large Print PDF
- Braille
- E-text
- MP3 Audio file
- DAISY (Digital Accessible Information System) format

The project had a number of positive outcomes, including the establishment of a national conference on women and disabilities, and a day-long summit on violence against women with disabilities.

Source: Women With Disabilities Australia. 2007. ['Development of a Resource Manual on Violence Against Women With Disabilities'](#).

To order a CD-ROM of the Resource Manual, contact [wwda@wwda.org.au](mailto:wwda@wwda.org.au).

- Plan interventions based on country context. For example, for countries with lower levels of female literacy, it may be most appropriate to plan a series of radio broadcasts or street theater productions.
- Strategically plan for implementation of rights-based education at the local, regional, and national level if possible. For example, see the [Combating Domestic Violence Against Women: National Action Plan 2007-2010](#) of the Republic of Turkey, Goal on Awareness Raising and Mental Transformation with detailed Activities, Responsible Parties, Partners, and an Implementation Phase. If resources are scarce, concentrate on the local level and the most disadvantaged women and girls.
- Interventions should involve both providing information on laws on violence against women and on how to obtain assistance for victims of violence. For example, [Women's Rights Awareness Programme](#) (WRAP) Kenya, provides publications on Know Your Rights, A Best Practice Guide on Gender-Based Violence, and a Service Directory, among other publications, which it distributes free of charge.
- Plan proactive dissemination of information to women and girls to help them to avoid becoming victims of violence.

**Example:** a multi-media awareness campaign for women's rights was conducted in Kirkuk, Iraq, in areas where internally displaced women from low economic and social backgrounds live. Topic addressed includes forced marriage, the right to education, and political participation. Posters and booklets featuring simple stories illustrated by humorous caricatures were printed and distributed to targeted areas. Radio shows also discussed the awareness campaign. Source: UNIFEM. 2006. [Promoting Women's Rights in Kirkuk](#).

- Plan similar information campaigns for men and boys to begin to change social and cultural norms around gender equality and violence. See the full module on working with [Men and Boys](#).
- Use a variety of communication strategies, such as paralegals [internal link to paralegal section], information kiosks at market locations and health care provider locations, creative brochures, fliers, and posters, and presentations at local churches, schools, and preschools.

### Kenya – Training for Key Stakeholders on New Sexual Offences Act

Kenya passed a new [Sexual Offences Act](#) in 2006. With the passage of the Act, a former Minister of Parliament began a process of undertaking awareness campaigns to ensure implementation of the Act at all levels within the Kenyan society through [CLICK \(Centre for Legal Information and Communication in Kenya\)](#), a human rights NGO at which she is a chairperson. CLICK developed a programme that targets school girls

with legal information about the provisions of the legislation. CLICK works through school clubs to provide one-day trainings for girls that match education on provisions of the new law (especially those related to reporting) with other types of education including self-defense training and career development. The programme also attempts to match young women with adult women as mentors. Because members of CLICK's board of directors have been or are influential members of the Kenyan Parliament, CLICK draws on their networks to find mentors for young women.

CLICK has been involved in training of judges (in collaboration with Kenya Women Judges Association, CLICK was instrumental in the development of a training manual for judicial officers on the Sexual Offences Act), parliamentarians, and provincial administrators on the provisions of the new law. Provincial administrators, including district officers and local chiefs, are often the first people to hear about crimes of sexual violence committed in the rural areas. Although a comprehensive programme evaluation has not been completed, CLICK notes that anecdotal experience demonstrates that the training and awareness-raising has made a difference in public attitudes about sexual violence. Girls appear more willing to report violence and the justice system takes the cases more seriously, specifically in the form of more severe sentences for perpetrators. Source: Interview with Felix Makoyo, Executive Director, CLICK (March 2011).

- Use pre-existing social networks such as small loan enterprises, mother's groups, and other, informal groups as entry points for presenting legal awareness information.

**Example:** The [Zimbabwe Women Lawyers Association](#) (ZWLA) provides legal training to groups of women facing similar legal issues, enabling them to represent themselves in magistrate-level court proceedings. The Zimbabwe Widows and Orphans Trust Project facilitates weekly discussions, called "Widows' Days," during which widows meet with judges to inform them of the challenges they face (United Nations Commission on the Status of Women, 2005).

- Train young people to serve as peer leaders in schools. For example, Canada has launched a pilot project entitled "Addressing Sexual Violence Prevention through Civic Engagement and Resource Development." The project is aimed at high-school-age young women and will be delivered by peer leaders who will provide preliminary information and encourage participation in confidential community forums with civic leaders and service providers (Email with Patricia MacIntosh, on file with The Advocates for Human Rights, 2011).

### **Indonesia – Volunteers provide legal assistance**

Justice for the Poor and Perempuan Kepala Keluarga have started a Women's Legal Empowerment Programme in certain provinces. Trained community volunteers provide information on issues involving divorce, inheritance and employment rights, domestic



violence, and children's rights, and help in filing petitions to female heads-of-households. The programme brings in representatives from the justice sector and local government for group consultations and question-and-answer periods. The women have stated that "...meeting legal officers through [the Programme] reduces their anxiety about the legal procedure."

Source: World Bank. 2007. [A Framework for Strengthening Access to Justice in Indonesia](#).

- Present information in appropriate languages.

### India- Raising Legal Awareness

The NGO [Marg](#) in New Delhi, India, has a Legal Literacy Programme for which it produces a variety of [legal awareness training materials](#), including books, manuals, posters, pamphlets, radio plays, and films. Marg has written a series of legal manuals in Hindi (Hamare Kanon) and in English (Our Laws) which explain 25 laws in easy-to-understand language. Marg has produced 10 films, Bol Bosanto, that utilize songs and action to facilitate interest. Marg has also developed a series of audio cassettes based on the films.

Marg conducts legal literacy workshops for rural, urban, and student populations. The workshops are planned for about 30 people and incorporate interactive strategies such as games, songs, role-plays, and the Bol Bosanto films. Marg also conducts training programmes for trainers, students, and volunteers who will bring legal awareness to remote areas.

In one success story, a partner NGO revealed that shortly after Marg conducted a legal literacy workshop, two of the NGO workers had been raped. Armed with the new information about their rights, the victims lodged a complaint and the case is being pursued in court.

To order copies of the training materials, contact Marg at [marg@ngo-marg.org](mailto:marg@ngo-marg.org).

Source: Rani. 2011. [Legal Awareness: Why It Is a Necessity](#).

- Ensure that information is disseminated among minority populations, including migrant women and girls.
- Present information for non-literate populations and populations with special needs. For example, see the film [Raising Women's Legal Awareness through Film-Tsunami](#) (International Development Law Organization, 2007).

- Present information appropriate to country context. For example, based on local fact-finding, two recommendations of a report on rape in Namibia called for civil society organizations to develop and distribute brochures on the criminality of obstructing the prosecution of a rape case, and on the concept that compensation schemes and criminal prosecutions of rape are not mutually exclusive (Legal Assistance Centre, 2009).
- Present information in a user-sensitive way; for example, the outside of the brochure should be innocuous and non-threatening so that a woman might pick it up without feeling exposed. Specific information on what to do if one is a victim of violence should be listed on interior pages.
- Present information on how to access legal services so that women and girls understand:
  - where to go for help depending upon the type of violence they have experienced;
  - court locations;
  - a step-by-step example of filing a complaint;
  - a case process;
  - a list of women's NGOs that provide legal services; and
  - contact information for victim advocacy services.
- Provide information on how a woman could seek justice without a lawyer.
- Provide web-based resources in addition to more traditional sources such as radio and television. For example, the United Kingdom has a website on [Community Legal Advice](#).
- Include graphic representations, videos, and audio resources in website materials to extend knowledge to non-literate women and girls. For example, La Dynamique des femmes juristes, Democratic Republic of Congo, discusses issues of access to justice for women who are victims of violence on the radio [here](#). See the Violence Against Women 365 International Poster Exhibition [here](#).

### India – Legal Awareness through VIDEO SEWA

The organization SEWA ([Self-Employed Women's Association](#)) in India has implemented a grass-roots programme in which community members make videos on legal, economic, or social concerns which affect them personally. A number of their members are non-literate or low-literate. The process of framing the issue, filming the participants, and showing the film publicly serves as a valuable training tool and promotes legal reform. SEWA programmes also use videos to educate women on the court process. For example, a group of women who make cigarettes had to testify in court. To prepare them for hostile questioning by opposing attorneys, SEWA videotaped

a mock court proceeding as a teaching tool, which greatly increased the women's confidence.

SEWA's standards in determining whether to use videos:

1. Set goals for using video as a tool in your organization.
2. Assess these goals. Critically and honestly analyze whether video is the best medium to achieve these goals. It is very easy to be dazzled by the technology and forget the difficulties.
3. Does your organization need videotape or a video unit to achieve these goals?
4. Does your organization have the human and financial resources to introduce video?  
To start a video unit anticipate the following:
  - funding needs for equipment, training, and follow-up and operational activities
  - equipment needs
  - training needs
  - time for skills to cement
  - keep expectations within reach
5. To plan a video unit carefully think about the questions below:
  - Who needs the tools and why?
  - Who will use the video and how?
  - How will video meet the organization's needs?
  - Who will learn video? (This is very important for long term sustainability.)
  - Who will provide training?
  - Who can be resources/problem solvers?
  - What equipment will be needed?
  - How will maintenance and repairs be achieved/financed?
  - Who will coordinate video activities?
6. Can the organization sustain video over time?
7. Does the organization have the necessary resources to meet the demands video will create?
8. How will video be evaluated? When? By whom?

For descriptions of video projects by SEWA on issues of violence against women see [Sharing Her Story](#) and [Taking a Stand](#). Through Our Eyes is a video workshop project which uses local actors and languages to address issues of gender-based violence response and prevention, including legal aid, counseling, and medical services for survivors of conflict-related countries. The initiative is sponsored by American Refugee

Committee and Communication 4 Change. To see a video of the first workshop, click [here](#).

- Provide timely knowledge for potential victims. For example, in the context of providing information on sex trafficking, provide information at job-hunting sites, hotels, airports and other transit locations and in places such as want ads, employment bureaus, or travel agencies.
- Use input from non-lawyer communication experts to present legal information, including input from women's NGOs. For example, the [graphic artists](#) behind the Paraguayan website wrote and illustrated seven different stories about violence against women and girls, including sexual harassment, domestic violence, incest, sexual exploitation of children, and female genital mutilation. These gritty, realistic, graphic stories present many aspects of a victim's dilemma and are followed by concrete steps to leave a violent situation, contact numbers for help, tips on increasing security for those who stay with the offender, tips for preparing to leave safely, and tips for increasing the safety of the children. [Spanish](#).
- Partner with government officials to disseminate legal information. Many governments recognize their obligation to provide legal awareness for women yet may be unwilling or unable to implement specific strategies to meet it. Working with governments may ensure sustainability of efforts and may improve wider dispersal of programmes.
- Extend awareness of legal needs to the community. Individual women who have been educated on legal awareness may be better equipped and motivated to demand services for survivors of violence for their community (UNDP, 2005).
- Provide opportunities for local media to publicize legal awareness programmes with letters to the editor and press releases.

### Armenia – TV Show Increases Legal Literacy

In Armenia, surveys revealed that the population not only distrusted the judiciary but also knew very little about their legal rights. In 2003, the [World Bank](#) and the Ministry of Justice launched a television show called "[My Right](#)" with the aim of increasing legal knowledge. The show was hosted by the Deputy Minister of Justice, featuring a mock trial based on real court cases. Judges, attorneys, law students, and other experts discuss legal matters covering a wide range of topics, including property law, family law and other areas. In 2005, two attorneys from the Women's Rights Center of Armenia appeared on the show. "My Right" has become extremely popular throughout the country, and there is [anecdotal evidence](#) that citizens are more interested in legal matters, have voiced an increased demand for legal services, and are using knowledge gained on the show to protect their rights. Additionally, there is emerging evidence that

the show has increased public trust in the judiciary. Source: World Bank. 2005. [Court TV for Armenia](#).

## Girls

Programmers should consider the special circumstances and greater barriers to justice experienced by girls and incorporate this knowledge into legal awareness programming. Challenges faced by girl victims of violence may include:

- Lack of legal standing.
- Lack of support as a holder of rights from adults.
- Economic and physical dependence upon adults.
- Difficulty in understanding judicial processes.
- Lack of formal or informal education on rights.
- Perpetrator may be from immediate family, thus girl might be unwilling to disclose the crime and others may be unwilling to believe her for fear of reprisal or social stigmatization.

Strategies to address the need for legal awareness of girl victims of violence include:

- Providing information about legal rights in school curriculums.
- Providing alternative sources of information for girls not in school, such as sewing or other youth clubs or health centers.
- Using peer advocate programs to disseminate information. Girls may be more likely to seek information and assistance from locally-run and familiar programme sources.
- Supplementing all sources of information with concrete strategies for enforcing their rights, such as legal clinic or child rights center contact information and paralegals with training on the rights of girls.
- Providing information in remote and poverty-stricken areas.
- Providing a wide range of [support services](#) for girl victims of violence.(Grandjean, 2010).

## Tools for Promoting Legal Awareness

- ***Practical Guide and Methods to Advance Women's Legal Rights*** (The Women's Legal Rights Initiative, 2007). Available in [English](#).
- ***Addressing Gender-Based Violence through Community Empowerment*** (Legal Assistance Centre, Namibia, 2008). Provides information on gender-based violence, discussion questions for community meetings, suggestions for group actions, and a summary of important points and laws for community use, in a user-friendly manual with examples specific to Namibian context but which are adaptable for use in many countries. Available in [English](#).

- **Legal Awareness Programme** (The [National Commission on Women](#), India) includes objectives, subject matters, and a budget for a 2-day programme. Available in [English](#).
- **Pocket Guide: The Combating of Domestic Violence Act** (Legal Assistance Centre, Namibia, 2008). Available in [English](#).
- **Pocket Guide: The Combating of Rape Act** (Legal Assistance Centre, Namibia, 2008). Available in [English](#).
- **Handbook for Civil Society Partners: Community Education and Awareness Program on the Rule of Law** (Ministry of Justice, Liberia, and the Carter Center, 2008). Available in [English](#).
- **A Guide on Domestic Violence** (The Cradle-The Children's Foundation, Kenya, 2004). Information on myths and realities of domestic violence and basic legal information for victims. Available in [English](#).
- **A Guide on Female Genital Mutilation** (The Cradle-The Children's Foundation, Kenya, 2004). Information on myths and realities of female genital mutilation and basic legal information. Available in [English](#).
- **Child Sex Abuse** (The Cradle- The Children's Foundation, Kenya, 2006). Information on myths and prevalence of child sexual abuse and on what to do if child sex abuse is suspected. Available in [English](#).
- A Standard Survey Instrument on Legal Awareness, Appendix IV, p. 95, **Legal Empowerment for Women and Disadvantaged Groups** (The Asia Group, 2009). The survey is on shelter, water, and health but is easily adaptable to violence against women and girls. Available in [English](#).

#### Tools on Media Training:

- **Training Manual for Gender Sensitization of Media on Violence against Women** (Participatory Development Initiatives, Pakistan). A detailed tool for workshop presenters that provides objectives, preparatory work, interactive group activities, handouts, discussion points, and more, see the website in [English](#).
- **How to Report Culture, Religion and Gender, a Training Manual for the Media** (Inter Press Service, South Africa, 2002). Available in English, [part A](#) – [part B](#).
- **Gender, HIV and Rights: A Training Manual for the Media** (Inter Press Service International Association, Italy, 2003). Available in [English](#).

**Tools for women with disabilities:**

- ***Women, Disability and Violence: Strategies to Increase Physical and Programmatic Access to Victims' Services for Women with Disabilities*** (McClain, 2011). Available in [English](#).
- [SafePlace, Responding to Violent Crimes Against Persons with Disabilities: A Manual for Law Enforcement, Prosecutors, Judges, and Court Personnel](#)  
Provides a toolkit to help criminal justice system professionals, attorneys, judges, and law enforcement officers more effectively respond to, investigate, and prosecute crimes against people with disabilities. Provides information about disabilities and disability etiquette; the dynamics of domestic violence, sexual assault, and caregiver abuse against people with disabilities; comprehensive safety planning for crime victims with disabilities; and strategies for taking a proactive approach to providing accessible services to crime victims with disabilities. Available in [English](#) and [Spanish](#).
- ***Braille Brochure on Family Protection Law in Jordan, for Women with Visual Impairments***. Outlines the provisions of the Family Protection Law in Braille. The brochure was drafted by several legal experts and was presented as part of a workshop for visually impaired people. For more information, contact [Karama](#).
- ***Violence against Women and Girls: Your Questions, Our Answers*** (Gender & Development Network, 2010). A brief yet effective synopsis of violence and its effects upon victims. Available in [English](#).

## FORMAL SECTOR: MONITORING AND EVALUATION

### Key principles for monitoring and evaluation

- Monitoring and evaluation should refer back to existing baseline data or begin with a baseline study
- Monitoring and evaluation are closely linked to, and should reflect the methodology of, the initial project [appraisal](#)
- Monitoring is an integral part of programme implementation
- Monitoring should be linked to the specific programme objectives that were defined through the appraisal and [programme planning](#) process
- Monitoring information should be used in decision-making
- Evaluation should follow a specific methodology designed to gather information about programme success
- Monitoring and evaluation should respect principles of participation and involve all programme [stakeholders](#), including programme implementers, beneficiaries (programme users), women and girl survivors when appropriate and safe, local officials, and other observers such as related civil society groups
- Monitoring and evaluation should respect and protect the rights, welfare, and confidentiality of all those involved in the programme

### Examples of Objectives for Monitoring and Evaluation of Justice/Legal Sector Initiatives

Strategy/ intervention	Examples of possible objectives	Examples of possible indicators
1) campaigns for improved laws and policies	<ul style="list-style-type: none"> <li>• Discriminatory laws and policies are amended or repealed</li> <li>• Appropriate laws, policies and protocols around violence against women are developed, enacted and implemented</li> <li>• Adequate resources are allocated for initiatives</li> </ul>	<ul style="list-style-type: none"> <li>• Percentage of the budget allocated for initiatives aimed at preventing violence against women, providing services for survivors and increasing access to justice for victims</li> <li>• Systematic national level data is collected on violence against women</li> <li>• Ratification of CEDAW, its Optional Protocol and/or removal of reservations</li> <li>• Ratification of relevant regional conventions</li> <li>• Legal recognition of non-discrimination and gender equality</li> <li>• Constitutional guarantee of gender equality</li> </ul>



		<ul style="list-style-type: none"> <li>• Specific action plan on violence against women</li> <li>• All forms of violence against women are criminalized and treated as serious offenses</li> <li>• Training on violence against women is offered and made mandatory for justice sector personnel</li> </ul>
<p>2) campaigns to increase women’s awareness of their rights, empower them to claim their rights, and mobilize communities to defend those rights</p>	<ul style="list-style-type: none"> <li>• Women increase their knowledge and awareness of their rights under international and local law</li> <li>• Women feel empowered to claim their rights under law</li> <li>• Women and girls understand that violence against women is a violation of their human rights</li> <li>• Men, other community members and leaders understand that violence against women and girls is a violation of human rights and understand the law in this area</li> <li>• Communities galvanize action to raise awareness around and promote a woman’s right to a life without violence</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of women (and men) who identify all forms of violence against women (specify forms) as a violation of human rights</li> <li>• Proportion of women who are able to identify their rights under specific legislation</li> <li>• Proportion of women who state they would report violence against them to the police</li> <li>• Proportion of women who state they understand and feel empowered to take their case through the legal process</li> <li>• Proportion of women who know of a local organization that provides legal aid to survivors</li> <li>• Number of violence against women complaints reported to the police (disaggregated by form of violence – i.e. domestic, sexual, other)</li> <li>• Proportion of men and other community members - attending or participating in awareness-raising events - who identify violence against women as a violation of human rights and a critical issue</li> </ul> <p>Proportion of men and other</p>

		community members - attending or participating in awareness-raising events – who make a commitment to protecting women’s rights and preventing violence against women
3) training to sensitize police, judges and all other justice sector actors around human rights, violence against women, and gender-related concerns, norms and stereotypes	<ul style="list-style-type: none"> <li>• Law enforcement professionals are able to respond to incidents of violence against women and girls according to established protocols</li> <li>• Law enforcement professionals are sensitized around gender, violence against women and barriers women and girls face, including the impact of prevailing norms and stereotypes</li> <li>• Law enforcement professionals address violence against women and girls as a violation of human rights, and are able to meet their obligations appropriately</li> </ul>	<ul style="list-style-type: none"> <li>• Number of law enforcement professionals trained to respond to incidents of violence against women and girls according to established protocols</li> <li>• Proportion of violence against women cases that are investigated by the police</li> <li>• Proportion of investigations that are conducted according to an established protocol</li> <li>• Proportion of law enforcement officials demonstrating appropriate knowledge, attitudes and practice around gender and violence against women issues</li> <li>• Proportion of women filing cases with the police who state that law enforcement officials handled their complaints with sensitivity</li> <li>• Proportion of women filing cases with the police who state that laws enforcement officials provided appropriate, meaningful assistance</li> </ul>
4) efforts to strengthen institutional capacity to respond to violence against women and girls	<ul style="list-style-type: none"> <li>• National protocols for addressing complaints of violence against women and girls are established</li> <li>• Commodities and infrastructure for addressing violence against women in police departments are</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of law enforcement units following a nationally-established protocol for complaints of violence against women – including the proper introduction of medico-legal evidence</li> </ul>

	<p>improved</p> <ul style="list-style-type: none"> <li>• Community referral systems for providing services/ assistance to survivors are developed and widely accessed</li> <li>• Documentation of cases of violence against women and collection of systematic data, including on prosecution and convictions, is strengthened</li> <li>• Collection of systematic data on prevalence of all forms of violence against women and girls is strengthened</li> <li>• Collaboration with the health sector for the collection of forensic data is strengthened</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of law enforcement units that have appropriate commodities/ infrastructure for interviewing women filing cases</li> <li>• Proportion of violence against women cases prosecuted by law</li> <li>• Proportion of prosecuted cases of violence against women that resulted in a conviction</li> <li>• Proportion of law enforcement officers that are able to refer women to organizations in a community-based referral network</li> <li>• Proportion of law enforcement units that systematically collect disaggregated data (such as form, age, perpetrator) on violence against women cases, including on prosecution rates</li> </ul>
<p>5) ongoing monitoring of the implementation of laws and policies</p>	<ul style="list-style-type: none"> <li>• Mechanisms for monitoring implementation of laws and policies are developed and publicized</li> </ul>	<ul style="list-style-type: none"> <li>• Database of laws, national strategies and action plans, programmes and institutional mechanisms for addressing violence against women and girls set up and maintained</li> <li>• Mechanism available and operational for ongoing monitoring of implementation of policies and enforcement of laws, and for publicizing of reports</li> </ul>

Source: PATH. [Monitoring and Evaluation Module](#), Virtual Knowledge Centre to End Violence against Women and Girls 2010.

Monitoring and evaluation should use multiple methods of data gathering to answer the same question. This allows for triangulation of data, or comparison of results from multiple sources. This in turn increases the validity of the result, or the likelihood that the data collection has captured a real result.

## INDICATORS

MEASURE Evaluation, at the request of The United States Agency for International Development and in collaboration with the Inter-agency Gender Working Group, compiled a set of indicators for the justice sector. The indicators have been designed to measure programme performance and achievement at the community, regional and national levels using quantitative methods. Note, that while many of the indicators have been used in the field, they have not necessarily been tested in multiple settings. To review the indicators comprehensively, including their definitions; the tool that should be used and instructions on how to go about it, see the publication [Violence Against Women and Girls: A Compendium of Monitoring and Evaluation Indicators](#).

The compiled indicators for the justice sector are:

- **Proportion of law enforcement units following a nationally established protocol for complaints of violence against women and girls (VAW/G)**

*What It Measures:* This indicator measures the number of law enforcement units that handle VAW/G complaints using a protocol which is in compliance with nationally established standards.

- **Number of law enforcement professionals trained to respond to incidents of VAW/G according to an established protocol**

*What It Measures:* This output indicator tracks the number of law enforcement professionals trained to respond to VAW/G incidents using an established protocol.

- **Number of VAW/G complaints reported to the police**

*What It Measures:* This indicator measures how many VAW/G complaints were made to and recorded by the police during a specified time period.

- **Proportion of VAW/G cases that were investigated by the police**

*What It Measures:* This indicator measures the proportion of VAW/G cases that were followed up with a police investigation, during a specified time period.

- **Proportion of VAW/G cases that were prosecuted by law**

*What It Measures:* This indicator measures the effectiveness of the legal system by tracking the proportion of reported VAW/G cases that were prosecuted.

- **Proportion of prosecuted VAW/G cases that resulted in a conviction**

*What It Measures:* This indicator measures the effectiveness of the legal system by tracking the proportion of reported VAW/G cases that were both prosecuted and resulted in an actual conviction.

- **Proportion of women who know of a local organization that provides legal aid to VAW/G survivors**

*What It Measures:* This indicator measures the proportion of women who are aware of an organization that provides legal support to VAW/G survivors. Women may not need to know the specific organization, but should know enough about it to be able to access services if needed.

In addition to the previously noted [internationally comparable indicators](#) being developed to monitor States' responses to violence against women, other illustrative indicators include:

- [The Report on Indicators on Violence against Women and State Response](#) by the United Nations Special Rapporteur on violence against women, its causes and consequences, (A/HRC/7/6, 29 January 2008) outlines a set of indicators, guided by human rights standards included in the Convention on the Elimination of All Forms of Discrimination against Women and the Declaration on the Elimination of Violence against Women.
- **The Council of Europe's [Monitoring Framework](#)** (p. 47) that was established to assess the *Implementation of and Follow-up to Recommendation Rec(2002)5 of the Committee of Ministers to Member States on the Protection of Women against Violence (EG-S-MV)*.

## Baseline Studies

### ***What is a baseline study?***

The purpose of a baseline study is to provide an information base against which to monitor and assess an activity's progress and effectiveness during implementation and after the activity is completed. Sometimes the data needed for a baseline, against which to measure the degree and quality of change during an activity's implementation, will already exist. In such cases the only task is to collate the data and ensure that it can be updated in the longer term. So it is important to find out what information is already available. But more commonly, there will not be any existing data, or it will be incomplete or of poor quality, or it will need to be supplemented or broken out into categories that are relevant for the project being implemented.

When planning a baseline study, the implementing organization needs to determine both what change needs to be assessed and what sort of comparison(s) will need to be

made as part of that assessment of change. There are two common ways to measure change:

- ‘with and without’ activity – this seeks to mimic the use of an experimental control, and compares change in the activity location to change in a similar location where the activity has not been implemented, and
- ‘before and after’ activity – this measures change over time in the activity location alone.

The study should be closely linked with the activity monitoring plan so that the data collected can be replicated if necessary during ongoing activity monitoring, for any mid-term review, when the activity is being assessed for the activity completion report and for any subsequent evaluations. Baseline data should provide the minimum information required to assess the quality of the activity implementation and measure the development results.

### ***Ethics and Baseline Studies Related to Violence Against Women***

Before conducting baseline research, it is important to be aware of any national guidelines on research that involves human subjects. Some organizations, such as universities, will have specific approval processes for any research that involves gathering data from human subjects. But even private organizations should ensure that they are aware of any national standards and that they incorporate ethical considerations into their methodology. Most countries have formal (legal) guidelines covering research and those engaging in research have the responsibility to check if their specific study has to go through a review/approval process. The United States posts the [federal guidelines on ethical research practices related to human subjects](#) online.

### ***Methods for Baseline Studies***

Many research methods can be used in baseline studies, including those described above in the [programme planning section](#) such as surveys, interviews, or focus groups. Visual items, including photographs, maps and diagrams, are important pieces of data and are often underused in a baseline study. It is often necessary to be creative and innovative about the data sources used. Of central importance in choosing a research method is the reliability of the data ultimately collected, meaning that if someone else used the same methods and repeated the data collection they would get the same results. Combining data collection methods is a recommended practice.

Adapted from: Australian Agency for International Development, [Baseline Studies](#) (2005).

**NGOs conduct Baseline Studies of VAW in Asia**

The International Women’s Rights Action Watch (IWRAP) Asia Pacific has assisted several organizations to conduct baseline studies of violence against women in Asia, including in Bangladesh, India and Nepal. The [Bangladesh Baseline Study](#) established baseline information about the prevalence of several forms of violence including family violence, rape and sexual violence, murder/suicide, acid assault, community violence (resulting from community decisions to punish a fellow community member), and custodial violence (violence against persons in state custody). The Bangladesh study used a partnership approach, creating a coalition of non-governmental organizations to carry out the research, and based their work solely on secondary sources of data. The study authors noted the difficulty of comparing information from different sources and of relying on media reports in many instances. The report also describes the basic laws that apply in cases of violence against women, as well as criminal justice system responses to the problem.

In India, the Association for Advocacy and Legal Initiatives conducted a baseline study specifically focused on the [Rights of Women in Relation to Marriage](#). The group organized forums for an array of civil society groups from two Indian states and asked them to bring case studies and data related to violence against women, specifically forced and child marriage. As a part of this process, major gaps in state data collection on violence against women as well as civil society minimization of certain types of violence, such as domestic violence, were revealed. The final baseline report examined data, the legal rights of women, and the state response through three phases – entry into marriage, during marriage, and dissolution of marriage. The report describes the basic laws that apply in cases of violence against women, as well as criminal justice system responses to the problem, and used case studies to highlight key findings.

Source: [IWRAP-Asia Pacific](#).

The specific baseline data collected will depend on the [goals](#) of the programme to be implemented. Baseline studies of the formal justice sector and violence against women should consider gathering data about:

- Prevalence of violence against women and girls, including prevalence of specific types of violence in the target community
- Characteristics of women and girls experiencing the highest rates of violence
- Characteristics of perpetrators engaging in violent behaviour
- Attitudes of key stakeholders about causes and consequences of violence against women and girls
- Attitudes of key stakeholders about remedies for violence against women and girls
- Number of cases of violence against women moving through the formal system, including complaints and cases investigated, charged, or filed but not pursued
- Judges, prosecutors, and other court staff’s knowledge of women’ human rights principles and obligations
- Description of the typical handling of a case of violence against women and the basic legal framework:

- Courts: Specifically court system responses including court administrator and staff Responses, training programmes, data collection and communication, court infrastructure and safe spaces, judicial response during interactions with victims and perpetrators, staff supervisor responses and judicial activism and involvement in the community related to violence against women. [Click here for examples of specific indicators.](#)
- Prosecutors: How do prosecutors use [risk assessments](#), interact with the victim and her family, deal with victim non-cooperation, use no-contact provision, restraining orders, and trial motions to protect the integrity of the case? Do prosecutors use vertical prosecution, screen cases effectively, safety-plan with the victim, carefully evaluate bail decisions, maintain regular contact with the victims and keep her informed of progress and case status? When evaluating a prosecutor's successful disposition of cases, data collection should include evaluations of victim safety and recovery in evaluations of prosecutions, not just conviction or plea rates, re-offense rates, or rates of victim participation. [Click here for other examples of other types of data that could be collected about prosecutors.](#)
- Civil justice system: Partnerships with local victim service providers, availability of legal assistance, specially trained attorneys, and coordination with criminal justice system. [Click here for examples of specific indicators related to the civil justice system.](#)
  - Special measures in place for case of violence against girls
  - Description of the interaction between the formal and informal system
  - Description of availability, quality and costs of legal and advocacy services for survivors
  - Description of availability, quality and costs of other services for survivors, including shelter, accompaniment and social support, or financial support

### **Namibia – Research on Rape Case Withdrawal**

The Legal Assistance Center in Namibia carries out rigorous research in support of justice system reform advocacy. The group found in a 2006 largely quantitative study that complaint withdrawal was the single most significant reason that rape complaints failed to move through the criminal justice system. That finding led the group to conduct a second research study in 2008 focused on the rationale behind rape case withdrawals. The second study used qualitative methods, including focus groups, key informant interviews and community member interviews. In order to safeguard the security and privacy of rape victims, much of the information in the research study came from community and service provider perceptions, although survivors were invited to participate and some did decide to come forward. The researchers also conducted a literature review of other studies on rape withdrawal to help them contextualize and compare their results. The group documented the 10 most common reasons that women withdraw rape complaints in Namibia: the woman received compensation, the woman was pressured by her family to withdraw the case, the woman feels ashamed that she was raped, the rapist physically threatened the woman to withdraw her case, the timetable for the prosecution of a rape case is too long, the woman feels that she



has insufficient evidence to win her case, the woman lacks the necessary information, the rapist occupies a position of status in the community, the woman was bribed to withdraw her case and the woman is in a position of financial distress.

Source: Legal Assistance Center. 2008. [Withdrawn: Why complainants withdraw rape cases in Namibia.](#)

## Monitoring

Monitoring progress of programmes in the informal sector builds on the baseline data collection. Monitoring focuses on gathering data to assess the following (UNDP, 2009):

- Progress towards outcomes
- Factors contributing to or impeding achievement of the outcomes
- Partnership strategy
- Engagement of survivors in programme work
- Project sustainability
- Lessons being learned and documentation of knowledge for wider sharing.

Effective monitoring develops a foundation for programme evaluation. Monitoring data and reports should be made available for use in the programme evaluation.

Monitoring can be relatively easy to integrate into programming and can take simple forms. Monitoring can include, for example, meeting notes and activity reports to records the processes that are used to implement the programme as well as challenges and unexpected results or events, such as political changes, abrupt changes in stakeholder perceptions or partnership functioning.

- Sample forms to monitor meetings and report on activities can be found in ***Mobilising Communities to Prevent Domestic Violence: A Resource Guide for Organisations in East and Southern Africa***, pp. 245-47 (Raising Voices, 2003). Available in [English](#).

Monitoring can also include regular observation of processes to ensure that they are consistent with original plans and protocols. This might include developing a system of performance indicators. Performance measurement helps identify opportunities for improvement in an organization's approach to achieving social impact, and it can inform day-to-day and longer-term decision making. Monitoring may also include repeated collection of data that was gathered in the [baseline study](#).

- ***Building a Performance Measurement System: A How to Guide*** (Root Cause, 2009). Available in [English](#).
- Canadian Observatory on the Justice System Response to Intimate Partner Violence (2011). This website provides tolls and research from a consortium of Canadian organizations that are working to monitor and evaluate

programmes focused on justice sector reform and domestic violence. Available in [English](#) and [French](#).

### USAID Performance Monitoring Indicators

The Women's Legal Rights Initiative used the following indicators related to the justice sector, gathered on a quarterly basis to monitor its programme in Albania, Benin, Guatemala, Madagascar, Rwanda, and southern Africa.

- Percent of violations of women's legal rights (such as domestic violence, rape, trafficking) reported to police or prosecutors that are presented in court
- Number of legal professionals trained in women's human rights and international human rights law
- Number of judicial decisions that cite international human rights law
- Number of mechanisms available for improving legal redress, e.g. women's bar associations, specialized courts, family courts, women in the justice system
- Number of legal professionals using project-sponsored publications on women's legal rights

Importantly, although U.S. Agency for International Development (USAID) intended to gather data on each of these indicators in the countries where its programmes operated, it was unable to access useful data on these indicators in all countries. This highlights the challenges associated with monitoring of violence against women and the need for creative methods for data collection, such as media monitoring and more qualitative methods.

Source: U.S. Agency for International Development. 2007. [Practical Guide and Methods to Advance Women's Legal Rights: Final Report of Women's Legal Rights Initiative](#), Annex A.

Depending on the length of the project, it may be important to gather data to compare to the baseline information on a regular basis so as to monitor progress toward objectives.

### Monitoring the Domestic Violence Law in India

The Lawyers Collective, a non-governmental organization in India has been monitoring the implementation of the Protection of Women from Domestic Violence Act (PWDVA) since its passage in 2005. [Watch a video about the group's efforts to pass the PWDVA](#). The group's Women's rights Initiative (LCWRI) used a two-pronged approach to gain an understanding of the functioning of the agencies put in place to implement the PWDVA (2005): (i) Primary data on the infrastructure put in place and the steps taken by the state towards effective implementation of the Act was collected from the nodal department of each state; (ii) In order to examine the manner in which the agencies are functioning on the ground, LCWRI conducted selective state field visits to interview various stakeholders. Data on infrastructure was collected from representatives of

relevant state nodal departments at a meeting organized by LCWRI and the National Commission for Women (NCW) on August 26, 2008, in New Delhi. At the meeting, representatives completed a questionnaire providing details on:

(i) Protection Officers (POs): Number of appointments; work profile; work procedures; supervision and accountability; administrative support provided by the nodal department; problems faced by POs.

(ii) Service Providers (SPs): Number of appointments; organizational profile; government funded or private, non-governmental organization.

(iii) Shelter Homes and Medical Facilities: Number registered; organizational profile of these institutions.

(iv) Budget allocations made by the state government to implement the PWDVA (2005) and the nature of awareness campaigns carried out.

(v) Steps taken by the State Legal Services Authority, State Commission for Women and the Police Department to implement the PWDVA (2005).

In addition to completing the questionnaire, participants also made individual presentations to share information on best practices, challenges and emerging trends in implementation. States that were not present at the meeting were sent the questionnaire by the NCW, which then returned the completed forms to LCWRI.

LCWRI also collaborated with local partners to gather data from 20 states. Fifteen of these states were visited by LCWRI; in the remaining 5, field visits were carried out by LCWRI's partners. A list of the 20 states follows; brackets indicate who conducted the fieldwork. The above states were chosen for site visits on the following basis:

(i) States not included in the 1st M and E Report. (In addition, LCWRI re-visited the states covered in the 1st M and E Report).

(ii) An attempt was made to ensure the widest geographic spread by including states from each region.

(iii) States that have undertaken successful initiatives in implementation

(iv) States where LCWRI has local partners well-qualified to conduct field visits on account of their experience in working with the PWDVA.

LCWRI also developed an interview template which was used to interview the following stakeholders about their experience in implementing the PWDVA (2005):

(i) Heads of government departments (for example: Department of Women and Child Development, Department of Social Welfare).

(ii) Protection Officers (POs): Focus on their educational qualifications, work experience and pre- and post-litigation roles. For each state, a minimum of one and maximum of 10 POs were interviewed. POs were chosen on the basis of their geographical proximity to the areas visited by LCWRI and its partners and, therefore, the sample has an urban bias.

(iii) Service Providers (SPs): Focus on their organizational profile and pre- and post-litigation roles. SPs were chosen on the basis of their geographical proximity to the areas visited by LCWRI and its partners and, therefore, the sample has an urban bias.

(iv) Shelter Homes and Medical Facilities.

(v) State Women's Commissions and State Legal Services Authorities: Focus on their role in the implementation of the PWDVA (2005).

(vi) Women's organizations, civil society organizations, non-governmental organizations and legal practitioners: Focus on their experience of working with the PWDVA (2005).

LCWRI also collected relevant notifications, government circulars, government orders and court orders to get a comprehensive picture of the status of implementation. Importantly, LCWRI also reported the limitations inherent in its data gathering efforts. Their monitoring report noted the problems they had encountered in during the monitoring process, the limitations of the sampling methods they used, and the types of data that were missing from the analysis. This reporting of limitations is critical to enhancing the credibility of a report.

Source: Lawyers Collective. 2008. [Staying Alive - Second Monitoring and Evaluation Report 2008 on the Protection of Women from Domestic Violence Act 2005](#), pp. 8-10.

## Evaluation

In general, an effective programme evaluation will do much more than simply fulfill grant requirements. Evaluation should shed light on the process of implementing the programme as well as the impact that the programme had on participants and beneficiaries. Evaluation can:

- Support programme improvements so as to enhance outcomes for women and girls
- Document programme knowledge for dissemination and applicability in other contexts – how can others learn from programme experiences and apply models to local problems?
- Support accountability – were resources expended in the manner planned and did the resources contribute to achieving programme goals? Why or why not?
- Provide information on results for donors and other audiences

The United Nations Development Programme [Handbook on Planning, Monitoring and Evaluating for Development Results](#) includes a detailed description of general considerations when creating an evaluation methodology.

Evaluation draws on the data gathered during the monitoring process and will collect final data related to many of the same indicators. As described above, evaluation can compare “with and without” activity in different locations or “before and after” measures in the same location. It is critical to discuss evaluation planning with experts from other organizations, from universities, or with donor technical assistance groups in the planning stages of the programme so that evaluation can be seamlessly integrated into programme activities (OECD/World Bank, 2004).

Data collection methods in evaluations are varied and can include many of the models discussed in the programme planning and design section:

- [Key-informant interviews](#)
- [Focus group discussions](#)
- [Community group interviews](#)
- [Observation](#)
- [Surveys](#)
- [Stakeholder analysis](#)

For an overview of the pros and cons of each of these methods for gender equitable evaluation, see the [UN Women](#) website.

### **Kenya – Evaluation of Trainings on Sexual Offences Act**

The Kenya Women Judges Association (KWJA) conducted an evaluation of its local trainings for stakeholders, known as Court Users, on the Sexual Offences Act and Children Act. The evaluation used a relatively simple, post-hoc model. Training participants from six districts were brought together for a workshop to discuss how they felt that the training had helped or not helped in their work on the ground. The evaluation workshop consisted of a survey administered to participants as well as group discussions about how the trainings had impacted practice. Nevertheless the evaluation provided valuable information to KWJA about its work. The evaluation survey administered to training participants included the following questions:

Name:

1. Please indicate if you are a participant, observer or any other?
2. If participant, please state your occupation. For example, Hon. Magistrate, Lawyer, Medical Practitioner, Prosecutor, Investigator, Police officer, Chief, Gender Officer, Probation officer, Children officer.
3. Please state your station of operation, department and rank.

4. How were you recruited to come to attend the training to be a participant/observer/other?
5. Before attending this workshop, were you aware of the Sexual Offences Act (hereinafter referred to as the Act)?
  - a. I was very much aware of it
  - b. I had heard about it
  - c. I had never heard about it
6. Had you read the Act before attending the Court Users Committee meetings?
  - a. Yes
  - b. Partially
  - c. No
7. How has this knowledge enhanced your understanding of the Act?
8. How prevalent is Sexual Gender Based Violence in your area of operation
9. How many cases/incidences were reported to you and what has been the outcome?
10. What challenges, if any, did you encounter in your area of operation and how has the training assist in overcoming these challenges? Please explain.
11. How helpful has the training assisted you in overcoming the challenges faced?
  - a. Extremely helpful
  - b. Helpful
  - c. Not quite helpful
  - d. Not helpful at all
12. Please explain your reason(s) for the above answer.
13. To what extent has your knowledge in the subject of the Sexual Offences Act and Sexual Gender Based Violence improved and increased as a result of the training?
14. To what extent has the training helped to enhance your appreciation and understanding of your job as a whole on the Sexual Offences Act and Sexual Gender Based Violence?
15. How has the training enhanced your expertise and skills in handling Sexual Gender Based Violence cases?
16. Has the Court Users Committee enhanced the coordination of the stakeholders in dealing with Sexual Gender Based Violence cases?
17. Do you think the Court Users Committee is a good tool in handling Sexual Gender Based Violence cases?

- a. Yes
- b. No

18. Please explain your reason(s) for the above answer.

19. What were the positive outcomes, if any, in the application of the knowledge, expertise and skills acquired during the training on the Sexual Offences Act and Sexual Gender Based Violence? Please explain.

20. If you have handled a case either as a Hon. Magistrate, Lawyer, Medical Practitioner, Prosecutor, Investigator, Police officer, Chief, Gender Officer, Probation officer, Children officer, will you share it with KWJA.

- a. If yes, forward to this address: [text omitted]
- b. If no, please give reasons

21. Did you find the following factors adequate?

- |  |        |       |
|--|--------|-------|
| a. Facilitators                          | a) Yes | b) No |
| b. Venue                                 | a) Yes | b) No |
| c. Interactions                          | a) Yes | b) No |
| d. The materials used                    | a) Yes | b) No |
| e. The approach used during the training | a) Yes | b) No |

22. If not, kindly give your reason(s) below.

23. Please give us your comments on how these programmes can be improved in future

24. Before these trainings, had you ever heard of Kenya Women Judges Association?

- a. Yes
- b. No

25. Any additional comments.

The evaluation team then compiled data from these questions into charts. You can review the findings from the KWJA evaluation in the group's [Assessment Report](#). Also, the feedback discussions provided important insight into what participants valued about the trainings and how they were using the information. The table below provides information from discussions in each of the areas where trainings were held:

Station	Feedback
Molo	<ul style="list-style-type: none"> <li>• There was coordination, networking and interaction with other stakeholders.</li> <li>• There was also better evidence gathering and preservation, better knowledge of SOA and SGBV cases.</li> </ul>
Maralal	<ul style="list-style-type: none"> <li>• They have appreciated challenges of other court users</li> <li>• Enhanced tactics of solving cases</li> <li>• Better skills in soliciting information from those affected and</li> </ul>

Station	Feedback
	<p>better counseling of spouses and children on their rights.</p> <ul style="list-style-type: none"> <li>• They respond better to these cases because they have the statutes.</li> </ul>
Naivasha	<ul style="list-style-type: none"> <li>• They have now introduced Gender Desks and have trained officers to run them.</li> <li>• They handled sexual offences separately and promptly. Victims give evidence during Plea day.</li> <li>• Children are being put in different cells from adults.</li> <li>• Chiefs and administrators are more efficient.</li> <li>• Police are more informed. Evidence is better preserved.</li> <li>• They can counsel victims and take them to safe-houses.</li> <li>• There are better investigations.</li> </ul>
Narok	<ul style="list-style-type: none"> <li>• More awareness from grassroots level and better skills</li> <li>• More cases being reported and less cover-up</li> <li>• More collaboration among stakeholders</li> <li>• More awareness of victims rights</li> <li>• Better skills in gathering and preservation of evidence for example DNA</li> <li>• More awareness of severity of punishment hence deterrence</li> <li>• Imposition of strict bail terms and improved information flow among stakeholders</li> <li>• Priority of trial in order to preserve evidence and discourage out of court settlement</li> </ul>
Nakuru	<ul style="list-style-type: none"> <li>• Better placed to advice parents and victims about preservation of evidence.</li> <li>• Awareness in handling the cases as to channels to be followed and the legal requirements involved in those offences</li> </ul>
Nyahururu	<ul style="list-style-type: none"> <li>• Conscious of the special needs of the victims</li> <li>• Further knowledge on how to handle SOA forensic evidence</li> <li>• Shared expertise and enhancement of the knowledge of law.</li> <li>• Networking with other stakeholders.</li> <li>• Identification of loopholes in cases.</li> <li>• Impart knowledge in the approach of victims</li> <li>• Improved supervision of people/suspect on bond</li> <li>• Balanced media reporting not to prejudice the case before conclusion</li> <li>• Empowered commanders to train their juniors to be better investigate and prosecute SGBV cases</li> </ul>

Source: Interview with KWJA Staff, Nairobi, March 2011; Kenya Women Judges Association. 2010. [Report on the Sexual Offences Act, Sexual Gender Based Violence and Children's Act Training Assessment](#) December 2010.

When choosing evaluation methods, consider the following:



- Choose appropriate and relevant methods: Choose data gathering tools based on their appropriateness for different kinds of initiatives. The most effective methodologies are those that are flexible and adaptable, simple to administer, designed to draw meaningful results, and are appropriate and relevant to the intended use and users of the evaluation.
- Choose methods that are participatory: Participatory methodologies are those that allow all the defined users/stakeholders to submit data and information. Think about the intended respondents and their context when deciding which methods to use. For instance, while online surveys are economical and time-efficient, it is an inappropriate method if the intended respondents do not have regular access to the internet. Make sure that the tools used are accessible to the full range of respondents.
- Ensure collection of disaggregated data: This is basic to any gender/human rights evaluation. All data gathered should identify the sex of the respondent and other basic data about the respondents that may prove relevant to the evaluation, including: age, ethnicity, nationality, marital status, occupation.
- Understand the constraints and challenges of informants: Evaluations should be careful to draw out the experiences and input of female respondents/stakeholders and those of other marginalized populations. Ensure that the methods chosen do not impose any hidden barriers that make the participation of these groups more difficult. For example, the choice of location, timing and language used of the evaluator may all have a bearing on the capacity of particular respondents to participate. Some groups may not be able to express themselves freely because of social pressure or they may not be allowed to speak or be represented in public meetings or community consultations. Women may have less time at their disposal because of their reproductive and domestic duties.
- Interrogate gender roles: The instruments used should address the gender issues of the initiative or project, and must probe into broader gender issues. For example, in assessing the impact of an ICT training initiative, it is not only important to look into what the trainees have learned but also how they have applied their knowledge in their work or organization. In order to assess this, it is essential to probe into the gender roles within the trainees' organizations and look at how they are able (or unable) to practice their newly-acquired skills.
- Be context and culturally sensitive: Group dynamics, subject matter, gender, class, caste, age, race, language, culture, rural/urban issues, etc. greatly influence how effectively and inclusively information is gathered. Evaluations need to be undertaken in a culturally sensitive fashion in order for there to be a full understanding of human rights and gender equality implications. Cultures may be viewed as contextual environments for the implementation of human rights policies. **Nevertheless, a human rights perspective affirms that the rights of women and girls to freedom from discrimination and to the highest standard of living are universal. Cultural claims cannot be invoked to justify their violation.**
- Emphasize mixed methods: Use multiple methods to help test, correct and correlate messages and data from different sources of information. In all cases,

methodologies should focus on evaluating both the product and the process: what has been achieved so far, and the way it has been achieved as well as how the methods keep evolving. Information on those two aspects reveals much about the social processes at work in any society.

- To get a complete picture of the social transformation issues and gender issues in a project or initiative requires more than numbers and statistics. Stories, perceptions, observations and opinions are valuable. They give the human dimension behind the statistics – a crucial part to understanding collected data.
- **Gender Equality and Human Rights Responsive Evaluation** (UN Women, 2010). Available in [English](#). See also the UN Women online guide to gender equality and human rights responsive evaluation in [English](#), [French](#) and [Spanish](#).

### USA – Evaluation Survey of Domestic Violence Program

A final report of an evaluation survey conducted in the US state of Colorado demonstrates how surveys, even of small numbers of people can help provide valuable evaluation data relative to programme components. The [Survey Analysis of the Domestic Violence Case Monitor Position](#) revealed the following:

- Representatives of all respondent groups reported that their practice has changed in a positive way as a result of the DVCM position.
- All respondent groups rate the sustainability of the position as very important, with many using the word “essential.”
- Judges, Probation Officers, and treatment providers all report positive change on multiple elements since implementation of the position (DAs were not asked this question; see DA section).
- While the survey asked respondents to consider the position, not an individual, there was considerable support expressed for the person currently in the position from all respondent groups. “Misty Young must stay and grow old in this position.”
- Judges are much more confident that offenders are being monitored appropriately.
- Judges find it more typical to have timely and adequate information at revocation hearings than before the implementation of the position.
- Sustainability of the position is important to the Probation Department in terms of enhanced communication and provision of effective supervision by the DVCM resulting in fewer cases ending up with Probation.
- 100% of the treatment provider respondents report a positive impact of the DVCM. Two major areas were most frequently cited: Increased offender accountability; Improved communication between the courts and treatment providers.
- 91% of the treatment providers report that the position has had a positive impact on their practice.

Source: Schwartz. 2006. Domestic Violence Case Monitor Position Survey Results.

An [evaluation](#) of a domestic violence case coordination programme in the U.S. state of Maine used the following interview guide as part of its evaluation:

## Sample Evaluation of Domestic Violence Case Coordination Project

### Final Post-Survey

Goals: To gather information and make recommendations about

- A. The sharing of information regarding pending DV criminal and civil cases and orders and the sharing of information among community partners;
- B. The coordinated management of related DV criminal and civil cases and orders;
- C. Systematic review of offenders' compliance with court orders and sentencing judgments; and
- D. Whether these practices and protocols are improving victim safety and offender accountability.

### Background

1. What is your role in this pilot project, and how long have you been involved in the work you are doing?

### Coordinated Community Response

2. How do you interact and share information with other partners involved with domestic violence cases?

### Information-sharing

3. Are you getting the information you need to make informed decisions or provide services that ensure victim safety and/or offender accountability? If not, what additional information would you like to have?

### Effectiveness of protocols

4A. Have the protocols in this pilot project (e.g. providing related DV case information, relationships developed in the advisory committee meetings, judicial review hearings presided over by the same judge, participation of probation and BIPs at JR hearings, etc.) made a difference in your ability to serve/respond to/make decisions regarding victims and offenders in DV cases?

4B. Have they made a difference in terms of victim safety and/or offender accountability?

4C. Can you provide specific examples of the positive impact of the protocols?

### Impact of Training

5. Did you attend the January 20 training with the Vera Institute? If so, did you implement or did you observe any changes in practices or protocols after the training? What do you believe or what have you observed to be the impact of those changes, if any?

### Suggestions for Improvement

6. Is there room for (further) improvement in what your court is doing with its domestic violence docket? If so, what kind of changes would you recommend?

### Key Practices and Protocols

7. What do you believe are the most important protocols or practices for other Maine courts to consider in developing their own DV docket? (Refer to “Draft Uniform Protocols” document as time allows, focusing on sections appropriate to the stakeholders. An alternative is to provide/e-mail the uniform protocols and ask them to e-mail comments.)

### Unintended Consequences

8. Have there been any unintended consequences, positive or negative, of the domestic violence docket or of any of the protocols implemented as part of the pilot project?

### ***Additional tools on monitoring and evaluation:***

- ***A Compendium of Monitoring and Evaluation Indicators*** (MEASURE Evaluation, 2008). Available in [English](#).
- ***Researching Violence Against Women: A Practical Guide***, (PATH/WHO 2005). Available in [English](#).
- ***Rule of Law Tools for Post-Conflict States - Monitoring Legal Systems*** (Office of the High Commissioner for Human Rights, 2006). Available in [English](#).
- ***The Comprehensive Assessment Protocol: A Systemwide Review of Adult and Juvenile Sex Offender Management Strategies***. (Center for Sex Offender Management, 2011). Contains a series of questions to assess prosecutorial practices in sex offender cases. Available in [English](#).
- Women’s Initiatives for Gender Justice has released four [Gender Report Cards](#) evaluating the effectiveness of the ICC’s implementation of gender justice principles. Read the 2009 Gender Report Card in [English](#).

### ***Illustrative monitoring and evaluation reports in the justice sector:***

- **Different Systems, Similar Outcomes? Tracking Attrition in Reported Rape Cases in 11 European Countries** (Lovett and Kelly, 2009). Available in [English](#).
- **Responding to sexual violence: Attrition in the New Zealand Criminal Justice System** (Triggs and Mossman, Jordan and Kingi, 2009). Available in [English](#).
- **Implementation of the Bulgarian Law on Protection against Domestic Violence** (The Bulgarian Gender Research Foundation and the Advocates for Human Rights, 2008). Available in [English](#).

- **Judicial System Monitoring Programme** (Women's Justice Unit, Timor-Leste). [Reports](#) are available in English, Bhasa and Portuguese.
- **Tracking Rape Case Attrition in Gauteng: The Police Investigation Stage** (Sigsworth, Vetten, Jewkes and Christofides/The Centre for the Study of Violence and Reconciliation, 2009). Available in [English](#).
- **Tracking Justice: The Attrition of Rape Cases through the Criminal Justice System in Guateng** (Sigsworth, Vetten, Jewkes, Loots, Dunseith and Christofides/The Centre for the Study of Violence and Reconciliation, 2008). Available in [English](#).

## Informal Justice Sector

### INFORMAL SECTOR: MAIN STRATEGIES

Informal [mechanisms](#) pose many risks to women and girl victims of violence. However, advocates are working around the world to make these mechanisms more responsive to women and girls. There are several recognized modes of informal justice sector reform that have been tried alone and in combination, in various contexts. For more information see the [Guiding Principles](#) section.

- Reform Laws and Regulate
- Innovate and Provide Alternatives
- Abolition
- Build Capacity
- Human Rights and Gender Training
- Raise Public Awareness
- Monitor Human Rights Practices

#### Reform Laws and Regulate

Ideally, informal justice mechanisms should be established that effectively respond to violence against women and girls. At a minimum, state laws should ensure that the informal justice sector complies with international human rights standards on the rights of women and girls. In many countries, informal justice mechanisms are recognized by law or in the constitution, but this recognition should specifically be contingent on judgments and practices not conflicting with fundamental human rights or non-discriminatory laws. For example, Kenya's Judicature Act recognizes customary law in "civil cases in which one or more of the parties is subject to it or affected by it, so far as it is applicable **and is not repugnant to justice and morality or inconsistent with any written law....**" (emphasis added). Also, national governments often enact regulations that put constraints on how informal systems operate or that limit their jurisdiction. Litigating cases of human rights violations by informal mechanisms can be another way of ensuring that informal systems comply with human rights standards.

For more on [Law Reform](#) see that section in Programme Implementation.

#### Innovate and Provide Alternatives

In areas where the state is absent or has less legitimacy, many communities create their own mechanisms for justice delivery. However, for any justice mechanism which deals with violence against women, stopping the violence, protecting victim safety, and ensuring offender accountability must always be the top priorities. Informal justice mechanisms must be carefully scrutinized because they may be based upon traditional or religious beliefs that are resistant to the rights of women. Or, they may not include

provisions for sanctioning violence against women due to a belief that such violence is a private matter (UN Women, 2011). Many people use existing informal mechanisms because they have important cultural or traditional components; yet these same traditional components may be based on discriminatory views, such as interpretations of religious or ethnic identity that discriminate against women, or they may perpetuate discrimination through over-riding goals of social harmony (UN Women, 2011). Innovating within these mechanisms to retain critical cultural components while also establishing new components that respect and promote women's rights can provide important gains, especially if women community leaders and local justice providers receive training on legal empowerment. If advocates such as paralegals support dialogue with justice providers and support women who wish to contest discriminatory laws and practice, progress can occur (UN Women 2011).

For more on [Innovation and Providing Alternatives](#) see that section in Programme Implementation.

## **Abolition**

In many countries, the approach to informal justice mechanisms for the past several decades has been to outlaw certain mechanisms. All decisions to abolish informal justice mechanisms should be based upon whether the rights of women and girls are upheld by that mechanism. However, abolition without viable alternatives for women may be problematic and unrealistic.

For more on [Abolition](#) see that section in Programme Implementation.

## **Develop Capacity**

Capacity development is the process of increasing skills, resources, and knowledge to enable programmes to be more effective. Promoting women's rights in the informal justice sector and ensuring an end to impunity for violence against women is a complex and difficult process. Cases of violence against women and girls should, in fact, be effectively addressed in the formal justice sector.

In many countries, new linkages between the formal and informal sector and women's advocacy groups are being formed to enhance capacities. These new collaborative mechanisms may provide women with more of the benefits of both systems and can provide openings for training on human rights in both sectors.

For additional information, see the [Capacity Development](#) section in Programme Implementation.

## Human Rights and Gender Training

Training is a critically important component of capacity development. But training also often must be coupled with other forms of capacity development. For example, informal practitioners in many settings have recognized the value of being able to provide victims and offenders with information about the remedies available in the formal legal system because it will more likely promote victim safety and offender accountability. However, legal literacy and general literacy both may be at low levels among informal practitioners. Providing basic literacy training to informal practitioners, along with providing them simple versions of formal laws related to violence against women can be an important capacity development process that has a positive impact on women's safety, especially when compliance with laws on violence against women is enforced by all those in positions of power, whether in the formal or informal system

For more on [Training](#) see that section in Programme Implementation.

## Raise Public Awareness

Raising public awareness involves creating a specific messaging campaign about a particular issue. Awareness-raising can be an important part of developing community support for changes in the informal justice sector; it has been shown to change knowledge and attitudes about violence against women. Campaigns should focus on tangible issues that are most relevant to the lives of community members, and should help women and other community members better understand their rights or an action that they can take to claim their rights. Public awareness campaigns should prioritize the message that women have the right to be free from violence in all its forms. Messaging campaigns should be clear and simple, associated with a campaign logo or a consistent image, sustained over time, and should form part of a larger coordinated strategy. Awareness campaigns may include events, poster campaigns, websites, documentaries, newspaper articles, radio, TV, or theatre programmes – creative, innovative ways of sharing information with the community can increase the success of awareness raising efforts.

For more on [Awareness Raising](#) see that section in Programme Implementation. See also the full module on developing [campaigns](#).

## Monitor Human Rights Practices

Human rights monitoring involves gathering relevant information about how the activities of informal justice systems comply or do not comply with internationally recognized human rights standards. Relevant information might include personal experiences of women who access the informal system, data regarding case outcomes or number and types of practitioners, observations, news reports, photographs, or interviews. A critical



part of monitoring is taking the information that has been gathered and creating a synthesis that can be used and understood by stakeholders and advocates in their work. Often this synthesis is a written report, which forms the basis of discussions about how to continually improve human rights compliance.

See the [monitoring section](#) for more information about developing a human rights monitoring programme focused on violence against women.

## INFORMAL SECTOR: CHALLENGES

- Incorrect assumptions about the informal sector
- Inconsistent norms and procedures
- Lack of data
- Logistical challenges
- Political nature of reform projects
- Governments shifting responsibility to non-governmental organizations, voluntary sector

### Incorrect assumptions about the informal sector

Programmes designed to engage with the informal justice sector are at particular risk of perpetuating assumptions that may not be based on facts. For example, it is often assumed that informal systems are quicker, cheaper, and more accessible. This is not always the case. Users of informal mechanisms may simply assume that they have no other choice. It is important to note that [informal mechanisms](#) often pose great [danger](#) to women and girl victims of violence.

Also, justice reform advocates and users of informal justice mechanisms may assume that they are more traditional or more grounded in culture than other mechanisms. This assumption can perpetuate harmful practices based on myths as opposed to facts.

Informal justice mechanisms are diverse. A blanket assumption that users choose these systems because they are cheaper or quicker may miss other important reasons that people use these systems. While some mechanisms may provide an option for a community that is cheaper and quicker, others may actually be just as costly for users as the formal system and may take just as much time to reach a resolution. A preference for informal justice mechanisms may reflect women's sense that they have no other options. If the goal of a programme is to change the way people use justice mechanisms or make another mechanism more accessible, it is important not to assume that cost or time is the overriding consideration.

Thinking of informal mechanisms as traditional or based in longstanding cultural frameworks (and are therefore preferable) is an assumption that is also made by users and practitioners. This may be true for some informal mechanisms, but often, informal mechanisms that are practiced by a particular religious or ethnic community have in fact

changed substantially over time and may operate very differently from a mechanism that operated in the past. It is important for programme planners to challenge these assumptions, especially when they are used to perpetuate practices that violate women's human right to be free from violence. Practitioners should be prepared for long-term engagement and look for emerging openings for change.

## **Inconsistent norms and procedures**

It can be difficult to reform a system that operates inconsistently. When there are clear rules and procedures for how a justice mechanism deals with a problem, often one can quickly identify which part of the system could be changed so as to improve outcomes for women and girls. Some informal systems operate with clear procedures and normative frameworks, but other informal systems handle similar cases in different ways, the rules of procedure may change depending on who is in charge, and the normative framework can change relatively quickly.

These characteristics can make programming challenging, because it has also been shown that forcing an informal mechanism to act in a more consistent manner may not be a helpful reform strategy. Practitioners around the world have found that working *with* these characteristics, instead of *against* them can lead to more effective programming. However, women and girl victims of violence must consistently be kept safe and perpetrators must consistently be subject to sanctions in order for the informal justice sector to be meeting its obligation to uphold the human rights of women and girls.

## **Lack of data**

Data regarding the informal justice system is particularly important in view of the known risks it presents to victim safety and offender accountability. Informal justice mechanisms may not keep records of cases, parties, decisions, remedies, enforcement, and etc. This lack of data can make it difficult to definitively establish how prevalent problems of women's human rights violations may be, or even whether a problem exists at all. Often, there is little data kept by any source about how the system operated in the past, how it operates currently, and how it relates to the formal system. This lack of information makes it challenging to educate funders and partners about the problems in the informal system and makes programme evaluation more difficult for measuring progress. This lack of data highlights the need for advocates to create their own monitoring and assessment systems early on so as to provide an evidence-base for their programmes.

## **Logistics**

Logistical challenges can make work with informal mechanisms more expensive and more time-consuming so programme planners should account for these potential difficulties. Informal justice mechanisms often provide access to justice in areas or during time periods in which the formal justice system is absent. Developing programmes related to justice reform may be difficult for the same reason that formal justice mechanisms are absent – the area in which the informal mechanism operates is difficult to access because of lack of infrastructure, challenging terrain, security issues, or because state control over the area is not well established. Informal mechanisms often are very localized and operate in communities with specific language and cultural characteristics. Unless community members or community-based organizations are directing the reform efforts, translation expenses and cultural training must be accounted for in programme planning.

## Political nature of reform projects

For many reasons, reform of the justice sector around violence against women can become highly politicized. Access to justice is a form of power, and changing the ways in which women can access justice can be perceived as changing the power dynamics between men and women in a given community. Changing the way in which informal mechanisms operate may also be viewed as undermining solidarity in a community and thus changing power dynamics vis à vis state structures or other communities.

**Example:** in Zimbabwe civil society groups found that simply using the term “human rights” was perceived as an expression of support for one political party. As a result, workshops had to focus on “leadership” and “dignity” instead of human rights.

Especially in communities that self-identify as a minority or indigenous groups, there can be tension between promotion of the rights of women as individuals and the perceived value of certain justice practices to group harmony and unity. However, all justice systems should always promote women and girls’ right to be free from violence. Also, changing norms around violence against women can negatively impact on the livelihoods of some community members. This is often seen when practices that are harmful to women, such as FGM, are banned and traditional practitioners lose their source of income and prestige in the community. This can never be an excuse to continue the harmful practice but should be a factor to consider in strategic development of an effective plan. Programme planners who are aware of these political dynamics and account for them in their strategy development will achieve a larger degree of success in promoting positive change. For example, former FGM practitioners can be employed to publicize the harmful effects of FGM instead or be trained to earn an alternative income.

## Governments shifting responsibility to NGO, voluntary sector

Informal justice mechanisms, whether or not they are sanctioned or funded by the state, can lead the state to abdicate its fundamental responsibility to ensure that women and girls who have experienced violence can access justice. Programming in the informal justice sector must not facilitate governments abdicating their responsibility to provide justice to victims of violence.

All justice mechanisms, whether formal or informal, require ongoing training and forums for communication between decision-makers, input from women in the community, resource investments in community education and awareness raising, and allocation of resources for monitoring, infrastructure support.

## INFORMAL SECTOR: IMPORTANT PROGRAMMING CONSIDERATIONS

There are some important issues that programme planners will want to consider as they design a justice reform programme focused on the informal sector:

- Addressing concerns about [restorative justice and mediation](#)
- Protecting [women's safety](#) in all aspects of programme work
- Considering [Minority and indigenous peoples' rights](#)

These programming considerations are also important issues in designing [formal justice](#) programmes.

Restorative justice practices and mediation are dangerous in cases of violence against women. Restorative practices can minimize the effect that violence has had in women's lives, can perpetuate discrimination, and can compromise the safety of women and girls in favor of harmony within a social group. Mediation is predicated on the assumption that the parties have equal bargaining power, which often does not exist in cases of violence against women and girls. For more information see the [Guiding Principles](#) section.

Because many informal sector programmes contain elements of restorative justice or mediation, it is important to continually refer back to the concerns about these methods in cases of violence against women. These concerns should be specifically addressed in programme design.

### **Protect women's safety in all aspects of programme work**

Women's safety must be the top priority in justice reform initiatives.

**Protecting women's safety also means ensuring safety for Women Human Rights Defenders.**

Working to reform the informal justice sector can be particularly dangerous for women's advocates. Challenges related to the informal sector, including logistics, perceptions of supernatural power, and the political nature of justice sector reform can lead to increased risks. Especially for advocates working in isolated communities, challenging the established order can lead to ostracism and an increased risk of violence. Women human rights defenders are subject to specific types of violence, risks, and constraints because of their work on gender issues. The following are types of violations that women's human rights defenders often confront:

- Attacks on life, bodily and mental integrity
  - Killing and attempted killing
  - Disappearance
  - Torture; cruel, inhumane, and degrading treatment
  - Rape, sexual assault and abuse
  - Domestic violence
  - Excessive use of force
- Physical and psychological deprivation of liberty
  - Arbitrary arrest and detention
  - Administrative detention
  - Kidnapping / abduction
  - Psychiatric incarceration
- Attacks against personhood and reputations
  - Threats, warnings, and ultimatums
  - Psychological harassment
  - Blackmail and extortion
  - Sexual harassment
  - Sexuality-baiting
  - Slander, vilification, labeling, and smear campaigns
  - Hate speech
  - Stigmatization, segregation and ostracism
- Invasion of privacy and violations involving personal relationships
  - Raids of offices or homes
  - Attacks and intimidation of family and community members
- Legal provisions and practices restricting women's activism
  - Restrictive use of customary law and legal frameworks based on religion
  - Criminalization and prosecution
  - Illegal investigation, interrogation, surveillance, and blacklisting
  - Laws formulated against non-governmental organizations
  - Sanctions in the workplace
- Violations of women's freedom of expression, association, and assembly
  - Restrictions on freedom of association
  - Restrictions on the right to receive funding
  - Restrictions on freedom of expression
  - Restrictions on access to information
  - Restrictions on communication with international bodies
  - Restrictions on freedom of assembly
- Gendered restrictions on freedom of movement

- Requirement of permission or denial to travel abroad
- Internal travel restrictions or obstruction
- Denial of visas for travel
- Deportation
- Non-recognition of violations and impunity

Documentation of violations perpetrated against women human rights defenders is an important component of the work. When documenting violations against human rights defenders, much of the same information should be gathered as in any human rights documentation case, but information should be collected that makes a clear link between the work on justice sector reform or other human rights violations and the abuses that were perpetrated.

Source: Oxfam 2007.

- **List of Materials and Resources for Women Human Rights Defenders** (AWID, 2010). Available in [English](#).
- **Claiming rights, Claiming Justice: A Guidebook on Women Human Rights Defenders** (Oxfam, 2007). Available in [English](#), [Spanish](#), [French](#), [Thai](#), [Arabic](#).

There are many ways that women human rights defenders can enhance their safety and hold perpetrators of violations accountable. Some of the most commonly used methods include (Oxfam, 2007; Australian Agency for International Development, 2008):

- Using action alerts or urgent appeals. See [FrontLine](#) for examples of urgent appeals on behalf of human rights defenders.
- Using awareness campaigns to spread the word about women HRDs under threat
- Emergency support in the form of calls and faxes to authorities, funds for medical or legal expenses, temporary relocation, etc. [FrontLine](#) hosts a 24-hour emergency phone line for human rights defenders at risk.
- Participating in networks of advocates
- Building supportive activities into programming can help reduce burnout and maintain safety.
- **What's the point of revolution if we can't dance?**, a guide to self-care for women's rights advocates available in [English](#), [French](#), [Spanish](#), [Serbian](#), and [Dutch](#).
- Awards nominations or seeking leadership roles in human rights groups can raise the profile for women HRDs who are under threat and change the cost benefit analysis for those who seek to harm or silence them
- Seeking support from national human rights institutions. For more information about working with national human rights institutions, see [NHRI Forum](#).

## Minority Rights and Indigenous Peoples' Rights

Many programmes in the informal sector focus on access to justice for minority groups or for indigenous peoples, both of whom may have been traditionally excluded from formal justice mechanisms. Minority or indigenous women face additional barriers to justice. Programmes in these communities must take account of the international human rights frameworks specific to minorities and to indigenous peoples, as well as international standards related to women's rights. **The [human rights of women](#), vital to their safety and well-being, should take precedence over the right to preserve certain customary justice or inheritance practices if the practices discriminate against women.**

### *Who are minorities?*

Minorities include groups who (Capotorti, 1977; Deschênes, 1985):

- Are less in number to the rest of the population of a state;
- Are in a non-dominant position ;
- Reside in the state, being either nationals or a group with close long-standing ties to the state;
- Possess ethnic, religious, or linguistic characteristics differing from those of the rest of the population; and
- Show, if only implicitly, a sense of solidarity directed towards preserving their distinctive collective identity.

Generally minority groups are recognized to include national, ethnic, cultural, linguistic, and religious minorities, as well as some migrants, refugees, and indigenous and tribal peoples. It is also important to consider that minorities are likely to be discriminated against or marginalized, and they may develop increased group loyalty as a result of discriminatory and marginalized relations with the state.\

Resources:

- See the United Nations [Forum on Minority Issues](#).
- See additional information on [minority issues](#) from the United Nations.

### *Who are indigenous peoples?*

Indigenous peoples are distinct from minorities, but share many of the same characteristics in some contexts. It is important for the state to uphold the rights of indigenous women which may be infringed upon by the collective rights of their indigenous group. Indigenous peoples include (Makoloo, 2005):

- Tribal (and in some cases migratory) peoples in independent countries whose social, cultural, and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations; and

- Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

In addition to rights as individuals to non-discrimination and equal treatment, indigenous peoples lay claim to collective or group rights, especially in relation to land, self-determination, and retention of culture

***What international and regional instruments frame the rights of minorities and indigenous peoples?***

- [International Convention on the Elimination of All Forms of Racial Discrimination](#)
- [Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities](#)
- ILO (169) [Convention concerning Indigenous and Tribal Peoples in Independent Countries](#)
- [Declaration on the Rights of Indigenous Peoples](#)
- [African Charter on Human and Peoples' Rights](#)
- [Council of Europe Resolution on Indigenous Peoples within the Framework of the Development Cooperation of the Community and Members States](#)
- [Draft American Declaration on the Rights of Indigenous Peoples](#)

***What are key rights of minorities and indigenous peoples related to justice sector reform and violence against women?***

- Non-discrimination
- Special measures to protect identity and attain equality
- Self-determination
- Right to culture
- Right to language
- Right to development
- Participation and consultation

Women and girls' human right to be free from violence should always take precedence over a community's right to preserve its culture.

**Minority rights must not take precedence over the human rights of women and girls. Concerns related to violence against women include:**

- Minority rights recognition can be important in reducing state-imposed violence in the lives of women in minority communities, but also can serve to entrench patriarchal systems.
- Minority rights recognition can excuse the state from taking responsibility for the protection of women and girls within its territory.



- Group rights can be transformed into “relational” rights for women, making their access to justice exclusively dependent on relationships with males.

In many minority communities, state-sponsored violence is a constant reality. This often is the case for racial, ethnic, linguistic, and religious minorities as well as for lesbian, gay, bisexual, and transgender communities who confront homophobia. As a result, formal justice systems, for which police are gatekeepers and in which the majority holds power, may not present a safe path to justice for many minority women. At the same time, women in community-based or indigenous justice systems may be re-victimized by informal mechanisms that minimize violence against women. **Creative strategies and innovation are imperative, especially for women who may be members of multiple minority groups. Strategies must maintain a focus on victim safety and offender accountability.**

## INFORMAL SECTOR: PROGRAMME IMPLEMENTATION

- Reform Laws and Regulate
- Innovate and Provide Alternatives
- Abolition
- Build Capacity
- Human Rights and Gender Training
- Raise Public Awareness
- Monitor Human Rights Practices

### Reform Laws and Regulate

Any justice sector reform should ensure that there is a legal framework in place to protect the human rights of women and girls. This framework should ensure that formal and informal mechanisms alike comply with international human rights standards.

- Constitutional provisions or legislation that recognizes informal mechanisms should make clear that any judgments or remedies that violate the human rights of women and girls are invalid.
- Laws should ensure that women and girls always have the right to appeal decisions from informal mechanisms in the formal courts.
- Conflicts between formal and customary laws should be resolved in a way that respects women's and girls' human rights and principles of equality.
- Laws should clarify that use of an informal justice mechanism should never preclude women and girls from seeking justice in the formal sector.

For an in-depth explanation of how to plan and implement an advocacy effort related to legislation on violence against women, see the [Legislation: Advocacy](#) section. For information about the content of effective laws, see the [Legislation](#) module.

### *Types of Reform and Regulation*

Legal reform and regulation of the informal justice sector can take many forms:

- Including strategies for the informal sector in the development of [national action plans](#) on violence against women and justice sector reform.
- Using constitutional reform processes as an entry point to encourage compliance by informal mechanisms with human rights practices.

Example: [Malawi's Constitution](#) in Article 24(2) states that laws must be enacted to eradicate customs and practices that discriminate against women.

- Clarifying links between the jurisdiction of informal systems and the formal sector; specifically, what types of cases can be dealt with by the informal sector and how cases or judgments in one sector relate to the other sectors.

**Example:** South Africa's [1998 Recognition of Customary Marriages Act](#) guarantees the same legal rights to women in customary or civil marriages if the marriage is registered.

- Enhancing legislative support for training and supervision of the informal sector.
- Drafting and enacting superseding legislation that addresses discriminatory provisions in religious or customary laws and ensures that those provisions apply to all people.

### Examples:

In Tanzania, the Village Land Act provides for equal representation of women on village adjudication committees and village land councils in order to address issues of gender inequity in customary systems that allocate land rights.

In Uganda, the law also includes a provision that declares judgments of local land committees null and void if they prevent women and children from inheriting and reserves 25% of spots on local committees for women.

- Use of local laws to change practices of informal justice mechanisms and to push reform at the national level.

### Uganda – Local Council Courts apply Local By-Law on Domestic Violence

The Local Council Courts in Uganda began as village-level “resistance” councils during Uganda’s civil war in the 1980s. They operated in areas where the state had lost control and were composed of members elected by all adults in a particular village. The resistance council would also act as a case resolution mechanism. After the regime change in Uganda, resistance council courts were formally incorporated into law and now are known as Local Council Courts. Despite the fact that domestic violence is a serious concern in Uganda, with government studies showing the prevalence at 70%, there was no law prohibiting domestic violence in Uganda until 2009.

The passage of the local by-law was in part the result of ground-up efforts. The community of Kawempe, led by local non-governmental organization [Centre for Domestic Violence Prevention \(CEDOVIP\)](#), had passed a local by-law prohibiting domestic violence two years earlier. CEDOVIP had worked with parish-level councilors to gain support for the by-law and had ultimately gained the support of all parish level leaders. But when the advocacy efforts reached the Division level in 2006, councilors used the proposed by-law as a political issue. Both sides used the proposed law for their own political gain and misrepresented provisions of the law. As a result, the by-law did not pass at the Division level on the first try. CEDOVIP decided to work one-on-one with each member of the Division leadership. Over the next several months, CEDOVIP and community members worked through individual meetings, community forums, and meetings with police and local leaders, as well as text message and phone call

advocacy to Division councilors. The local Domestic Violence By-Law was passed in October 2007.

The law provides direction to the Local Council Courts – often the first place that women seek justice – on how to deal with domestic violence cases. The by-law regulates the way in which cases of domestic violence are to be conducted providing guidelines on summoning suspects, conducting trials, and the number of people required for a quorum for judgment. It also contains jurisdictional provisions requiring that criminal matters be referred to the Police Family and Child Protection Units.

See the [Legislation](#) Module for information about the content of effective domestic violence laws.

Sources: CEDOVIP. 2001. [Kawempe Division passes first ever domestic violence by-law in Uganda](#); Penal Reform International. 2000. [Access to Justice in sub-Saharan Africa: The role of traditional and informal justice systems](#), pp.49-50, 60-62.

### ***Potential Pitfalls of Regulating the Informal Sector***

- Regulations about the appointment of arbitrators in informal systems should be carefully considered and can backfire. For instance, requiring appointment of more women through regulation may erode the mechanism's ability to control the men who come before it as accused persons, leaving women in a worse position than previously. This problem can be addressed in some cases by appointing only women elders to the decision-making bodies, or by carefully increasing the participation of women over time, instead of through regulation with immediate effect.
- State regulation of the informal sector can create dual layers of discrimination against women (Balchin, 2010). States should carefully monitor the regulation of the informal sector for unintended consequences.

More information about law reform is available in the section on the [Formal Sector](#) and in the module on [Developing Legislation](#).

### ***Strategic Litigation***

Constitutional and legal protections that obligate informal sector mechanisms to protect fundamental rights are important because they provide an avenue whereby women and girls can litigate the practices of the informal sector in the formal courts. Strategic litigation is discussed in detail elsewhere in this module. The following cases provide examples of litigation that has led to changes in informal justice practices. The cases below deal with property and inheritance rights. Inheritance upon the death of a male family member often is a trigger for violence in the form of [maltreatment of widows](#) or

other kinds of violence to force women to vacate property. Loss of property also leaves women vulnerable to violence because they cannot access their own means of support without property and other inheritance.

- [Bhe v. Magistrate](#) (South Africa 2004)

The *Bhe* judgment consolidated three related cases in which women or girls had been denied the right to inherit from male relatives under customary law, which had been codified through legislation in South Africa. Under the rule of primogeniture as well as section 23 of the Black Administration Act, the house of a deceased male became the property of the eldest male relative. The Constitutional Court declared the African customary law rule of primogeniture unconstitutional and struck down the entire legislative framework regulating intestate deceased estates of black South Africans. According to the Court, section 23 of the Act was anachronistic since it ossified 'official' customary law and grossly violated the rights of black African persons relative to white persons. With regard to the customary law rule of male primogeniture, the Court held that it discriminates unfairly against women and illegitimate children on the grounds of race, gender, and birth. The Court notes that the customary law rule was in contravention of the South African Constitution as well as CEDAW. The result of the order was that all deceased estates are governed, until further legislation, by the Intestate Succession Act 81 of 1987, whereby widows and children can benefit regardless of their gender or legitimacy. The Court also made orders for the division of deceased estates in circumstances where the deceased person was in a polygamous marriage and was survived by more than one spouse.

- [Pakistani swara case](#) (2006)

In 2006, two sisters living in the tribal regions of Pakistan challenged the decision of a tribal jirga to settle a case by using the longstanding traditional practice of swara. Swara is a practice of forced marriage of young girls as compensation for settling blood feuds among some communities in Pakistan. The Pakistan High Court declared the decision of the tribal jirga to impose swara illegal and a violation of human rights.

- [Mojekwu v. Ejikeme](#) (Nigeria 1999)

In Nigeria, the Nrachi custom enabled women to inherit the property of their father, but only in the event that they performed Nrachi which required that they never married and that they raised male heirs for their father. The Nigerian Court of Appeal, Enugu Division held that the Nrachi custom, which is designed to oppress women and compromises the basic tenets of family life, was inequitable and judicially unenforceable. The court held that a female child is generally entitled to inherit her deceased father's estate and does not need to perform any customary ceremony such as Nrachi to exercise that right.

- [Rono v. Rono](#) (Kenya 2005)

In Kenya, a man died without a will, leaving two wives. The first wife's household included three sons and two daughters. The second wife's household included four daughters. The High Court awarded a greater percentage of the estate to the household that included sons on the ground that the daughters would eventually marry and receive assets from their new families, a decision based on tradition. Drawing guidance from the nondiscrimination provisions of the international human rights treaties that Kenya had ratified, the Court of Appeal overturned the High Court's decision, finding that the unequal inheritance distribution violated the Constitution's prohibition against discrimination on the basis of sex.

## Innovate and Provide Alternatives

While existing information indicates that informal [justice mechanisms](#) pose many risks to women and girl victims of violence, advocates are working around the world within informal systems to make them more gender-responsive and to increase the choices available to women who need a remedy. Strategies include increasing the participation of women in informal mechanisms, non-governmental organization engagement with informal mechanisms to alter power inequities, changing the types of remedies that are proscribed through informal systems, and creating entirely new justice mechanisms. For more information see the [Guiding Principles](#) section.

### ***Key strategies to improve informal justice mechanisms include:***

- Developing accessible appeal or complaint mechanisms for survivors who are unhappy with the judgments of informal mechanisms
- Ensuring that confidentiality procedures are in place
  - Evaluating how public participation impacts on the confidentiality of victims.
- Appointing advocates for women and girls who have cases before informal mechanisms
  - Advocates should be women elders or other well-respected women.
  - Advocates should be trained in the dynamics of gender-based violence.
  - Advocates should have access to referral information so as to connect women and girls with supportive services where available.
  - Advocates should be empowered to speak on behalf of survivors during the process if the survivor wishes them to do so.
- Ensuring that victims are not required to attend any negotiations about remedies or compensation, but have the option to attend or send a representative
- Changing compensation regimes
  - Supporting compensation schemes **only when in addition** to other punitive remedies, such as incarceration.
  - Ensuring that any compensation is allowed only when acceptable to the survivor.
  - Ensuring that compensation is paid directly to the survivor, not her family or male relatives, and that it is placed in trust if she is under age.

- Changing penalties applied by informal mechanisms
  - Ensuring that penalties comply with international human rights norms.
  - Consulting survivors about the use of non-custodial penalties.
  - Eliminating the use of physical punishments.
- Working closely with survivors to ensure that apologies are never a substitute for sanctions or reparation, and are allowed and encouraged only when the survivor wishes to hear and/or accept such an apology
- Adopting a formal resolution on gender inclusion or reserving spots for women on informal case resolution bodies. However, it is important to note that having women decision makers does not automatically ensure the prioritization of victim safety and offender accountability in any justice system.

**Example:** In Cuetzalan, Mexico women form part of the governing structure of the local indigenous court. In this way, they are able to influence the operations of the court in a direction that is more positive for women.

- Creating women-run case resolution mechanisms.

**Example:** the Mahila Panchayats in India are run by women and the agreements that parties come to during the sessions are enforced by women in the community who monitor the outcomes.

### India – Women-run “Traditional” Justice Mechanism

In the Delhi slums, women who are victims of violence, especially violence that is considered a family problem such as domestic violence or dowry violence, have few options for justice in practice, despite the progressive [act on domestic violence](#) passed in 2005. Police may refuse to file reports or denigrate women who come to seek help, finding legal advice is costly, and traditional justice mechanisms are dominated by men. Women’s groups, led by [Action India](#), have created a new justice mechanism that is designed to be more supportive of women, known as the [Mahila Panchayat](#). The mahila panchayat provides an example of innovation within a traditional system to enhance women’s participation and control. **However, it also raises important questions in that innovation can reproduce problematic aspects of traditional systems, such as requiring face-to-face negotiation in cases of violence, victim-blaming, unclear risk assessment procedures, and pressure to reconcile in the cases of inexperienced panchayats.**

Based on the traditional village council, Mahila Panchayats are Neighborhood Women’s Councils. Dozens of Neighborhood Women’s Councils have been started by Action India, each with 25 to 30 members. A study of mahila panchayats published in 2003 described the mahila panchayat method of operation and concludes that the new justice mechanism has increased women’s options and empowerment. The study was based on in-depth interviews as well as five months of observation of panchayat sessions, counseling sessions, home visits, and workshops. **It did not address concerns about**

**mediation and negotiation of domestic violence cases however, which are important concerns relative to the mahila panchayat model.**

The mahila panchayat process generally begins with a woman seeking help from the organization, although some women also are referred by the police. Common complaints reported by the study focused on male family members or community members and include domestic violence, dowry violence, alcohol and drug use, failure to support the family, affairs with other women, and property grabbing. Prior to the development of the mahila panchayat, the problems noted above, including domestic violence, generally were addressed through traditional bardari panchayats, which were completely controlled by men, or through family negotiations. According to the study, the mahila panchayats generally do not involve police unless a woman's life is in danger, although it was not clear from the study reports how that risk assessment is made.

After hearing a woman's complaint, the panchayat sends a letter to the other party, often the husband, requesting that he attend a panchayat session. The letter notes that if men do not comply, Action India will take other action to address the problem. Women are counseled on their legal rights so as to develop their understanding of the law related to marriage, dowry, and property. Generally, the mahila panchayat requires that both parties attend a session with the 25-30 volunteer panchayat members. According to the study, most of the women who brought cases wanted to reconcile, although the panchayat also supports women who wish to leave their marriages by ensuring that men pay maintenance for children or through assisting women to find their own means of support. In all of the cases observed for the study, the mahila panchayat decision required that women receive financial maintenance and that violent behaviour stop. Decisions of the panchayat generally are solutions negotiated and written by the parties themselves, with the support and advice of the panchayat. Members of the panchayat then monitor the decisions to ensure women's safety. According to the study, women are encouraged to make their own decisions about whether to stay in a marital relationship, and the staff and volunteers provide the social support necessary to help women follow through on their choices in the face of pressure from families and cultural tradition.

The study noted that the ability of the mahila panchayat to effectively support women's rights and personal decision-making was in large part related to the experience of the group of community members who make up the panchayat. Those who have been engaged with the process for longer and who have had more training and experience are better able to counter men's attempts to force reconciliation and justify violent behaviour. According to the study, the mahila panchayats hold men accountable for violence by challenging their denials and their presumed entitlement to use violence. However, it noted that newly formed mahila panchayats are less able to challenge these tactics effectively and often need to be mentored by well-established mahila panchayat groups until they become more knowledgeable about women's legal rights and gender awareness.



Source: Magar. 2003; International Museum of Women. 2010. [Women's Justice by Action India](#); Action India. 2010. [Mahila Panchayat Program](#).

**Example:** Messengers for Peace in Comayagua, Honduras emerged as a community watch group after workshops on promoting peace and addressing gender based violence. The group is all-volunteer and is dedicated to providing legal education to their fellow women and girls who are confronting violence. They follow-up and intervene in cases of domestic abuse.

- Writing community level “legislation” that supports women’s and girls’ rights in the context of minority governance institutions

**Example:** Māori iwi (tribal) leaders in Aotearoa New Zealand formed a consortium to address family violence, which ultimately led to the adoption by most iwi authorities of “zero tolerance” policies for violence in their communities. The discussions around the draft policies also led to national level advocacy on changing legislation that the iwi believed allowed a justification in law for assaulting children.

- Positive non-governmental organization engagement with the informal system, in particular, designed to balance power inequalities

**Example:** the [Ugandan Association of Women Lawyers](#) (FIDA-U) provides legal aid to women in several districts. Sometimes, an official letter from the organization written to the husband outlining the applicable law in the case can help to change the power dynamics and resolve the cases that women bring to the group.

**Example:** In Northern Iraq, among internally displaced populations (IDPs) with no access to formal justice mechanisms, the organizations [Heartland Alliance and Mercy Corps are working to change the way traditional mediation operates and improve women's rights](#). The program trains mediators on women’s rights in marriage and divorce and on how to mediate appropriate cases so as to prevent potential violence. Mediators are also trained to refer cases that are not appropriate for mediation to legal assistance services.

### Community Tribunals on Violence Against Women (Zambia)

In Zambia, the use of “tribunals” is a longstanding technique for advocacy. The tribunals do not have legal standing as part of the formal courts, but are community mechanisms for raising awareness and making recommendations related to pre-selected cases. The tribunals consist of up to ten community stakeholders and experts on the topic. The civil society network [Justice for Widows and Orphans Project](#) (JWOP) uses tribunals to address violations of the rights of widows, such as property grabbing, wife inheritance, and widow cleansing. Community members bring their cases forward to the network of

organizations involved with JWOP. JWOP then organizes 1-2 tribunals annually to raise awareness of the cases and to get recommendations from the community and experts as to how to move forward. Although the tribunals do not have legal standing to resolve cases, they can often raise awareness of injustice to the point that formal or informal justice sector mechanisms take action and provide remedies. Tribunals also can have the effect of mobilizing communities to act as watchdogs after becoming aware of the injustices in some cases.

Similar tribunals are organized by the group Jagori in Bangalore, India. The Courts of Women focus on the issue of dowry and accompanying violence against women. The tribunals bring women from across the region to tell their stories of dowry violence and their cases are heard by a panel of experts, including legal experts. The sponsoring group then creates a report and recommendations to the government, related to new legislation and other practices to end dowry violence.

[Editor's note: Although opportunities such as the community tribunals, which allow people to tell their stories are an important aspect of demonstrating and encouraging a norm of respect for survivors and thus important to women and girl victims of violence, tribunals might also provide opportunities for women to receive legal assistance and advocacy in pursuing cases of violence. And, it is important to note that these tribunals do not take the place of [formal justice](#) mechanisms that are also available to women and girls. See the [Guiding Principles](#) section for more information.]

You can read the infopack from the Courts of Women on Dowry in [English](#) and [Hindi](#).

Source: Varga. 2006; JAGORI. 2011. [Courts of Women: Vimochana Bangalore](#).

## Abolition

Abolition (i.e. ending or outlawing practices) of certain practices or justice mechanisms may be the goal of some justice reform projects. **In particular, when informal mechanisms endanger women or girls, subject women and girls to discrimination on the basis of sex or other status (such as, race/ethnicity, income level, urban or rural residence, etc.) or use physical punishments that amount to inhuman and degrading treatment, those mechanisms must be abolished.**

Abolition can be accomplished through changes in the law or through education and provision of alternatives. There is general consensus that simply outlawing practices or mechanisms without public education and awareness is the least effective means of reform in the informal sector. Changing the law in combination with ongoing education and provision of alternatives is a preferable strategy.

In any scenario, especially when the abolition of an entire justice mechanism is being proposed, it is important to carefully consider the dangers of abolition and the impact that outlawing certain mechanisms could have on women's safety (DANIDA, 2009;

Penal Reform International, 2000). For example, practitioners should consider what alternative justice mechanisms are available to women and girls if an informal system is abolished. Would abolition of a justice mechanism lead to lawlessness or vigilantism, for example? What will take the place of the informal mechanism? How will abolition impact other community structures that in turn impact women's and girls' human rights? When informal mechanisms are abolished, States should devote resources to providing effective, consistent, and readily-available [formal justice mechanisms](#) to support the rights of women and girl victims of violence.

### **Palestine – Using Negotiated Contracts to Stop “Honor” Killings**

The [Women's Centre for Legal Aid and Counseling](#) (WCLAC), a Palestinian women's advocacy organization, works at the intersection of the formal and informal justice sectors by addressing “honor” killings. In order to stop families resorting to traditional “honor” killings, WCLAC, with support from the [United Nations Trust Fund to End Violence against Women](#), works closely with families, religious leaders, formal justice sector officials, and secular government leaders to devise alternative solutions. One solution is to bring parties together in a meeting to hear from victims, negotiate a solution which in the eyes of the family saves its family “honor” but also protects the safety of the woman or girl, and then to have family members sign a contract in the presence of religious and secular authority figures stating that they will honor the negotiated decision of the group not to carry out an “honor” killing. WCLAC uses ongoing monitoring of and data collection on femicides to continually adapt its strategies for prevention. WCLAC has developed a partnership with the Institute of Forensic Medicine at Al-Najah University to try to ensure that deaths of women are accurately documented as femicides instead of accidents or suicides. Along with providing alternatives for families considering femicide, WCLAC also works for legislative and policy change and continues to advocate for legal changes that would increase penalties for those who perpetrate “honor” killings.

Source: Spindel et al. 2000. [With an End in Sight](#), pp. 103-04; WCLAC. 2009. [Heading Towards Achieving Hope: 2009 Annual Report](#).

## **Develop Capacity**

### **Overview**

One of the most widely used models of engagement with the informal sector is creation of capacity development and training programmes. The following are key steps to consider in developing a capacity development programme:

- Needs assessment/Situational appraisal: Like any justice sector reform effort, capacity development should begin with determining what is needed in a particular sector or community. Along with the techniques described in the [Programme Planning and Design Section](#), needs assessment for capacity

development can be done through a capacity inventory. [Editor's note: Capacity inventories are useful in both the informal and [formal justice](#) sectors.]

- Planning: Develop a plan to increase capacity that allows sufficient time and resources for training or other capacity provision, for people to practice new skills or use new equipment/resources, and for individuals to adjust to new roles and responsibilities as their capacity increases.
- Monitoring and Evaluation: Include benchmarks for success and an evaluation component to examine whether the capacity development has met the needs outlined in the assessment.

Capacity development related to informal justice and violence against women can take many forms, but some of the most commonly used include:

- Creating legal educational materials
- Creating or modifying infrastructure
- Increasing collaboration and linkages
- Facilitating knowledge transfer

**Example:** In Papua New Guinea, village courts use custom to come to a decision but they are considered an official part of the formal justice sector. Village court officials are trained and supervised in some respects by the formal sector, which opens avenues of communication and should ensure the integration of women's rights principles into the customary system.

#### Tool:

- **Capacity Inventory of Justice Sector Actors.** To conduct a capacity inventory, work in a team to list out the types of skills, knowledge, and relationships that are needed to accomplish a project, organizational goals, or a justice reform initiative. These lists can be very broad and inclusive – from specialized legal knowledge to typing skills. Then, if conducting individual inventories, designate an individual to interview all staff and volunteers to determine what assets they possess from the list. This will generate a “capacity resume” of each individual. Capacity inventories can be conducted on an individual, organizational, or community level. The process does not just look for deficits but also examines assets that already exist but may be unknown or under used. At the end of the process, new assets and the need for increased capacity can be revealed. At the organizational or community level, these inventories might look more like a map, instead of an extended resume. With the assets of key players documented, the places where capacity is lacking quickly become clear. See a sample [Capacity Inventory](#) developed for use in community building in the United States.

### **Create legal education materials**

High quality legal education materials can help women and girls understand and claim their rights.

- Work with experts who have a detailed understanding of the governing formal laws, customary practices, or religious laws, and their impact on women and girls, to ensure that materials present accurate information.
- Relate the laws, customs, or practices being addressed back to [international human rights principles](#) and clarify that human rights principles must take precedence over country laws, customs, or practices.
- Create materials that help people understand both the formal and informal sector options available to them. Many of those working in the justice sector regularly are dealing with the overlap of formal and informal systems.
- Know the audience for the materials, but do not make assumptions. Judges, survivors of violence, community advocates, and traditional leaders likely will need different types of information and need it presented in different ways. Work with those who will use the materials to listen to their needs and to pre-test materials. It can be easy to assume that certain audiences, in particular judges or magistrates, have a particular literacy level, or are aware of certain basic legal information. These assumptions can be problematic, especially in post-conflict settings where education has been interrupted or unavailable for many years. Seek guidance from experts on developing materials for low-literacy audiences if needed.
- Create materials in a format that is easy for people to carry and reference regularly. Smaller size booklets, quick reference pages, and charts that quickly compare concepts make it more likely that materials will be used.

### Indonesia – Legal Education Materials Compare Formal and Informal Practice

In Indonesia after the tsunami in 2004, the International Development Law Organization (IDLO) worked extensively to build the capacity of local legal stakeholders, such as local non-governmental organizations, courts, and community members to understand the multiple legal regimes in place in Aceh. IDLO published a series of guidebooks detailing land law and guardianship practices, including the rights of women in the justice process. An evaluation of the project revealed that a particularly helpful tool was a matrix (sample row shown below) comparing customary norms, formal laws, and Islamic legal opinions on a given issue.

Topic	Formal Law	Customary Principles and Norms	Islamic Legal Opinions/ Principles	Notes
FEMALE GUARDIANS	There is nothing in the Islamic Law Compilation which prohibits females from	Under customary law men are generally appointed guardians. However, in certain situations	There is broad support from the MPU that mothers may – and generally should – be appointed guardian of their children when their	According to the Indonesian legal scholar, Subekti, a surviving spouse will automatically

	being appointed as guardians.	(e.g. where there are no male eligible to be appointed), a female may act as guardian (over both the day-to-day care of the child and its property). However, she would not be given the title of 'wali'.	husband has died. However, with respect to the child's inherited assets, responsibility should rest with the father, the grandfather or, in their absence, the guardian or the <i>Mahkamah Syar'iyah</i> .	'by operation of statute' become the guardian of their own children who are under 18 years of age. In practice, the <i>Mahkamah Syar'iyah</i> supports the appointment of female guardians. Post-tsunami, there have been several cases where the court has appointed maternal grandmothers as guardians of their grandchildren.
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The entire guidebook including the matrix of laws and the three shorter FAQ documents can be downloaded for review.

- [Guidebook on Land, Inheritance and Guardianship Law in Post-Tsunami Aceh](#)
- [10 Frequently Asked Questions on Inheritance Law in Post-Tsunami Aceh](#)
- [20 Frequently Asked Questions on the Guardianship of Children without Parental Care in Post-Tsunami Aceh](#)
- [10 Frequently Asked Questions on Guardianship Law in Post-Tsunami Aceh](#)

Sources: Harper. 2010; International Development Law Organization. 2006. [Guidebook on Land, Inheritance and Guardianship Law in Post-Tsunami Aceh](#).

### **Create or modify infrastructure**

Informal mechanisms can be adapted to include and reflect basic good practices related to infrastructure which exist in the formal courts. as they respond to cases of violence against women.

- **Safe spaces:** Women and girls reporting violence should have a safe and confidential place to do so, whether they are seeking assistance from a formal court or from an informal practitioner. Capacity-building projects should help communities develop spaces or procedures through which women and girls can be assured of confidentiality and safety. This may mean creating relationships with medical providers and advocacy groups, among others.
- **Record keeping:** States have a responsibility to gather information about violence against women, and the outcome of violence against women cases, including in the informal sector. **Projects to help informal mechanisms record how they deal with cases that involve violence against women are a powerful first step in examining how these systems can better serve women and girls. Projects should be creative in using new technologies to implement systems of record keeping for low literacy populations or communities without access to traditional record keeping infrastructure.**

### Rwanda – Proposed Phone Record Keeping System

In Rwanda, a proposed capacity-building project aims to increase the effectiveness of the *abunzi* local informal justice mechanism by creating a centralized phone database where local arbitrators can call in to record their decisions, which currently are usually hand-written and kept informally by the *abunzi*. The *abunzi* would orally record a brief description of the case, name the parties, and record the resolution. The local *abunzi* could then tag the oral recording with subject categories. Over time recorded decisions would be rated as best practices, and then made available for local *abunzis* to call in and review when they have a similar case.

Source: Jeffers and Agamanolis. 2009. [Oral Wiki to Support Informal Justice Systems](#).

### ***Increase collaboration and linkages***

Increasing collaboration between the formal and informal sector can be a powerful way to build capacity. Key strategies for increasing collaboration between the formal and informal sector include:

- **Coordinated Community Response (CCR):** Creating [coordinated community response](#) mechanisms in the informal context. Non-governmental organization supported programmes can create one-stop centres for women that offer supportive services for health care, psychological counseling, and case resolution advice. As these centres gain prominence, their value is recognized by local informal or formal justice officials who then refer cases to these entities.
- **Paralegal training:** The involvement of paralegals, or individuals with professional training in the law and legal processes but who are not attorneys, is a common component of increasing linkages and collaboration. Paralegals who have been trained in gender-based violence have been shown to increase access to justice for women and girl victims of violence.

- Legislating collaboration: Laws can mandate ways in which the formal and informal sectors interact by requiring information sharing between formal and informal sectors.

### Kenya – Linking Chiefs with Other Court Users

The Kenya Women Judges Association (KWJA) is a non-profit, membership association based in Nairobi. The KWJA, which includes as members Kenya's 19 female judges and more than 45 female magistrates, works to train the judiciary and other key stakeholders on the provisions of Kenya's [Sexual Offences Act](#) and [Children Act](#). As a result, KWJA has trained judges, magistrates, investigators, prosecutors, police child advocates, probations officers, and others on these important laws that protect girls, in particular from sexual violence. KWJA works through "court users committees" to conduct trainings. Court users committees, which involve periodic meetings of individuals who interact with the courts on a regular basis, were established by the judiciary in Kenya to provide a forum of education and consultation on issues related to the courts. In 2009, KWJA conducted trainings around Kenya with these groups, but repeatedly heard that local level chiefs, who had not been included in the trainings, were a critical group because of their important role in addressing crime, particularly in areas outside the capital city Nairobi.

Kenya's system of administration includes chiefs, who operate at the most local level. (When the devolution provisions of Kenya's 2010 constitution are implemented, the role of chief will no longer be part of the government administration.) Chiefs are often the first point of contact for anyone who has been a victim of a crime. They often are the first to receive complaints of rape and other forms of sexual violence. It was reported to KWJA that many chiefs were settling cases of sexual assault through mediation and compensation, or through other types of informal case resolution, which then hampered efforts to gain justice in the formal courts. Members of the court users committees reported that chiefs played a critical role in preserving, or not preserving, evidence which then made prosecution of cases more or less difficult. Because of concerns raised about how chiefs were handling cases of sexual violence, KWJA targeted training sessions specifically for local chiefs.

According to reports from KWJA staff, chiefs reacted very positively to the trainings, and were appreciative of being included. KWJA trainings involved trainers from KWJA, from the state forensic labs, and from the state prosecutor's office. Chiefs particularly appreciated the opportunity to interact and network with these officials from other levels of government. An [evaluation of the trainings](#) indicated that the majority of participants, both chiefs and other stakeholders, found the trainings extremely helpful. Participants also reported that the training enhanced their understanding of the law and their ability to implement it. KWJA designs their trainings not only to provide accurate information about the content of the law, but also ensures that the participants have the opportunity to raise concerns and share difficult cases with which they need assistance on the ground. This provides an opportunity for group problem solving and brainstorming.



KWJA staff also reported that chiefs were changing their behaviour in handling cases as a result of the trainings. For example, chiefs were now speaking out against mediation and compensation for sexual violence cases, even for those cases that involved family members as perpetrators. Also, there were reports of chiefs working more effectively to preserve evidence by escorting victims to the hospital, and then ensuring that both the victim and the perpetrator were brought before the police so that charges could be filed. Finally, chiefs found that the new laws are an effective tool in preventing cases within their communities. Instead of using compensation, and then allowing perpetrators to go free to perhaps commit a similar crime again, the laws allow chiefs a tool to stop this cycle of violence and ensure that their communities are safer.

KWJA also reported challenges related to the chiefs' trainings however. These challenges were primarily related to logistics because the trainings were held in more rural parts of Kenya and many of the chiefs were coming from remote locations. Accordingly, ensuring that the trainers' and participants' schedules could match and that everyone could get to the same location without adversely impacting their regular work duties was a challenge. Ensuring travel and lodging reimbursement for chiefs traveling from remote locations was also a challenge because for some the expense was quite large and participating in a one day training would require two nights lodging at the venue and two full days of travel.

Source: Interview with KWJA Staff, Nairobi, March 2011.

### **Ethiopia – Community Collaboration to Prevent Child Marriage**

In Ethiopia, many communities are working to address the problem of [child marriage](#). In some regions, half of girls are married before the age of 15. Local communities, supported by non-governmental organizations, have taken a collaborative innovative approach to the problem. Traditional legal and formal legal authorities are partnering with reproductive health advocates and educators to prevent child marriages. Girls clubs have been established in schools to educate girls about the risks of child marriage. Community health representatives also work in the community to educate families about these risks. Girls from the clubs often report the engagements of friends to school officials who then report the upcoming marriage to local authorities or to local marriage approval/ screening committees. These community level committees are composed of religious leaders, government representatives, and women's rights groups. The committee hears the case and determines whether the girl is of legal age to be married. When there is a question about the girl's age, she must travel to a hospital for age determination before the committee will approve the marriage. If parents are found to have violated the federal statute setting 18 as the legal age of marriage, the committee can recommend that the families be called to the formal court where they can be fined or even jailed. Marriages can also be annulled through this process, or girls can obtain divorces. Non-governmental organizations then provide scholarships for girls who leave child marriages so that they can attend school.

[Watch a video about how the group Pathfinder works to end early marriage in Ethiopia.](#)

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<iframe width="420" height="315" src="http://www.youtube.com/embed/EztBEbOtQU8"
frameborder="0" allowfullscreen></iframe>
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Learn more about [forced and child marriage](#).

Sources: Pathfinder International. 2006. [Creating Partnerships to Prevent Early Marriage in the Amhara Region](#). Fente. 2009. [Ethiopians Fight to Stop Early Marriage](#).

### **Facilitate knowledge transfer**

Informal practitioners may often be isolated and have little opportunity to interact with practitioners from other communities or systems. Justice reform programmes can build capacity and facilitate interaction amongst informal practitioners by:

- Arranging transport and facilitating knowledge transfer tours. In Cambodia, the [Community Legal Education Centre](#) facilitates group tours on which informal practitioners from Community Case Resolution Projects can visit each others' communities to share experiences and collaboratively solve problems.
- Holding chiefs meetings in a central location on a regular basis for practitioners to discuss common issues and difficult cases. In Southern Sudan, annual chiefs meetings were mentioned by many participants in a [United States Institute of Peace study](#) as an important interethnic forum for sharing knowledge.
- Providing trainings that bring informal practitioners from different areas and different mechanisms together to share strategies. **It is important to note however, that this can be very challenging, as practitioners from different systems often are reluctant to interact, and, without preparation and expert facilitation group meetings can lead to entrenchment of harmful norms.**

### **Liberia – National Council of Traditional Leaders**

The [Carter Center](#) works in Liberia with the National Council of Traditional Leaders. This group brings together community leaders from across the nation to discuss rule of law concerns and other issues. The Council also has a women's caucus. Through consultation that brings leaders together for meetings with representatives from the Carter Center and other groups, the Council has issued public statements from its women's caucus and from the body as a whole that support new rape and inheritance laws in Liberia.

Source: Telephone Interview, Tom Crick, The Carter Center, Dec. 2010.

## Human Rights and Gender Training

Although training is a type of capacity development, it is so frequently used and so widely recognized as a necessary component of justice reform that it has been highlighted as its own category here. Training for the informal sector will be context specific, as described in the examples below, but certain general principles apply:

### ***Subject-matter considerations***

- Training should help place informal mechanisms within the context of international human rights obligations, constitutional obligations, and formal laws. See the [Legislation](#) module.
- Training should focus on women's right to be free from violence as a collective community responsibility.
- Training should highlight the critical importance of holding offenders accountable for violence in a swift and meaningful way.
- Training should include information about how to conduct a [risk assessment](#) so as to help informal justice practitioners identify the most dangerous and violent offenders so that victims can be adequately protected.

### ***Design considerations***

- The audiences for training should include chiefs, mediators or other decision-makers, community members who use the system, and women in particular. Other key audiences may include, youth, faith leaders, members of the media, women's groups, and men's groups.
- Trainings should be based on initial assessment data so as to effectively meet the needs of the audience and avoid resistance to trainings that do not take context into account.
- Training should prioritize stopping the violence, protecting victim safety, and holding offenders accountable.
- Training should focus on skill development as well as legal and human rights knowledge.
- Training should be respectful of, and recognize, the skills and expertise of, traditional and community leaders and the skills and expertise of women's groups.
- Training should incorporate community traditions, stories, and modes of expression to the extent they promote women's right to be free from violence.
- Training should include pre- and post-assessments of the knowledge, attitudes, and beliefs of the participants relative to violence against women and the role of the informal justice sector.
- Training should be dynamic and interactive, drawing on [adult learning principles](#).

### **DR Congo – Lessons Learned on Training Male Community Leaders**

Women for Women International conducted an evaluation of its programme to train male community leaders on gender and sexual violence in the eastern Democratic

Republic of Congo. The [evaluation](#) revealed several lessons that may be applicable to other programmes designed to engage men through training on issues of gender violence:

- *Carefully select trainees:* “Analysis revealed that in some instances leaders were selected for training without first assessing their interest or level of commitment to the issues to be covered in the training. While some may have developed an interest over the course of the training, it may be more effective to ensure that each person who goes through initial training expresses some degree of interest, particularly if they are being recruited to conduct further training.”
- *Determine appropriate length and spacing of training relative to topic:* Participants in the evaluation said that the 3-5 days used for the Men’s Leadership Training was not sufficient to give participants time to digest and reflect upon materials. Conducting an introductory training and then spacing out subsequent trainings can give participants more time to absorb and develop and understanding of complex and new material.
- *Ensure that materials are appropriate for the audience:* Participants in the Men’s Leadership Program were asked to conduct outreach after their training and they noted that very simplified materials would have been helpful for that exercise. Other participants recommended community theatre as a means of training grassroots communities.
- Consider how to incorporate women into training programmes for men: The evaluation revealed that although the programme was targeting men, spontaneous outreach by male-female teams provide very effective. Considering husband-wife teams as role models for change amongst other couples was one suggestion from the evaluation participants.

Source: Women for Women International. 2007. [Ending Violence Against Women in Eastern Congo](#).

Often, training on violence against women can be seen as directly challenging long-established community norms and values. As a result, it can be hard to get participants to agree to attend the training. Communities around the world have responded to this difficulty by:

- **Creating Incentives** – Combining trainings on gender dynamics, human rights, and laws on violence against women with entertainment or other types of training which community members need (vocational, leadership, entrepreneurial, etc.) can often be the only way to get participants to attend trainings. Teaching people about violence against women often must be paired with basic legal literacy and rule of law education, especially in rural communities.

### **Liberia – Rule of Law Education**

As Liberia recovers from a devastating civil war, [The Carter Center](#) is partnering with community based organizations to train local trainers on rule of law education. The

programme is designed to build the capacity of local civil society groups as well as increasing the legal literacy of Liberian communities. The programme addresses a number of issues including basic structure of the legal system, new rape and inheritance laws, as well as trying to dissuade communities from using traditional rituals like “sassywood,” or trial by ordeal, to determine guilt. [The Carter Center’s Handbook for Community Partners](#), outlines the messages and methods community educators and trainers can use in civic education. The handbook also includes helpful strategies for working with community elders and traditional leaders.

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A [video](#) describes and shows footage of some of the rule of law programmes and their impact.

Source: [www.cartercenter.org](http://www.cartercenter.org)

## Raise Public Awareness

Awareness-raising is a powerful tool and has been shown to change attitudes related to gender. Key principles for awareness-raising around informal justice sector reform include (Australian Agency for International Development, 2008):

- Portray role models with whom audiences can identify. These role models can demonstrate that there are new ways to deal with common problems and that the new ways can protect the human rights of women.
- Offer women-only sessions whenever feasible, as well as mixed-sex sessions, to allow for frank discussion amongst women and girls.
- Use multiple modes of communication to saturate a community with a consistent message.
- Reinforce mass media, like radio or posters, with interpersonal communication such as town hall meetings.

- Include “edutainment” as part of the awareness raising effort. This might include theater, radio dramas, videos with talk-back sessions, as well as music and music videos.
- Keep the awareness effort sustained over time. Holding regular community consultations and distributing periodic newsletters, articles or other materials on a regular basis, all are potential ways to make a communication effort sustained and fresh.
- [Engage faith communities](#) in efforts to increase knowledge and change attitudes early in the process. Because faith traditions are often used to justify violence and male domination in society, engaging faith communities to change that paradigm is essential.

### Awareness-Raising in Aceh, Indonesia

After the tsunami hit Indonesia in 2004, it was clear that women were vulnerable because of lack of information about their rights in Aceh’s justice system, which includes customary courts (*adat*), shari’a courts (Mahkamah Syari’yah), and the formal courts. As part of a broader public awareness campaign designed to ensure that women’s – especially widows and divorced women’s – inheritance and custody rights were protected, an international non-governmental organization worked to develop posters highlighting women’s equality in land tenure and guardianship. The campaign also included films designed specifically to enhance women’s knowledge, and posters to reinforce community awareness of legal rights. The film tracked the lives of three women who were dealing with some of the most common legal problems faced by women: land rights, inheritance, and guardianship.

#### Tools:

***Guidebook on Land, Inheritance and Guardianship Law in Post-Tsunami Aceh*** (International Development Law Organization, 2006). Available in [English](#).

***10 Frequently Asked Questions on Inheritance Law in Post-Tsunami Aceh*** (International Development Law Organization, 2006). Available in [English](#) and in Bahasa Indonesian by emailing [aceh@idlo.org](mailto:aceh@idlo.org).

***20 Frequently Asked Questions on the Guardianship of Children without Parental Care in Post-Tsunami Aceh*** (International Development Law Organization, 2006). Available in [English](#) and in Bahasa Indonesian by emailing [aceh@idlo.org](mailto:aceh@idlo.org).

***10 Frequently Asked Questions on Guardianship Law in Post-Tsunami Aceh*** (International Development Law Organization, 2006). Available in [English](#) in Bahasa Indonesian by emailing [aceh@idlo.org](mailto:aceh@idlo.org).

## Mock Tribunals in Nigeria

The Nigerian women's human rights group [BAOBAB](#) and the Civil Resource Development and Documentation Centre organized the first National Tribunal on Violence against Women on March 14th 2001 in the capital city of Abuja. The tribunal was unofficial and not legally binding, but the testimonies would be real – 33 women were selected to testify. Some of them had volunteered, and many agreed to share their experiences when they realized this may have a positive impact on their families and communities. They testified about their experience of violence from the state, in the home, and from society as a whole.

The judges were selected based on their prominence and their concern for women's rights. They included two Supreme Court Justices, several heads of NGOs, and prominent lawyers. The tribunals were open to the public, and the organizers took special care to invite journalists, police, commissioners, and other groups. Different types of human rights abuses were grouped into different sessions. The panel of judges listened, asked questions, and after the testimonies, they convened in private. Afterwards, rather than passing a sentence, as in a regular trial, the judges made a public policy proclamation.

The testimonies were very moving for the audience, and the attendance of journalists led to wider public awareness of the tribunals. Locally, the tribunals helped to get state legislation passed against female genital mutilation. On a national level, their impact helped advance a domestic violence bill (which was eventually passed in 2007). More generally, the tribunals created greater public awareness that abuses against women do exist, and that they are serious.

See related [documents](#) on this tribunal.

Source: Fijabi, M, 2004. [A Mock Tribunal to Advance Change: the National Tribunal on Violence Against Women in Nigeria](#), on New Tactics in Human Rights.

Sample rights-based education materials on the informal sector include:

- Leaflet on ***Violence Against Women*** (Nigeria: BAOBAB for Women's Human Rights). Available in [English](#).
- Leaflet on ***Divorce under Muslim law*** (Nigeria: BAOBAB for Women's Human Rights). Available in [English](#).
- ***Radio programme on violence against women*** (Equal Access, 2010). The Samajhdari Project radio project episodes are available for download. Available in [Nepali](#).

## Maximizing Mobile Phones for Rights-based Education

Organizations and activists around the world are quickly adapting their educational efforts in both the informal and [formal justice](#) sectors to take advantage of mobile phone technology. The anti-trafficking organization [Survivors Connect](#) uses text messaging technology with grassroots organizations in Cameroon, Ghana, Nepal, USA, and Vietnam for the following education and awareness raising activities:

- Reporting instances of violence/locations of suspected trafficking activity
- Organize/publicize events and meetings via text
- Viral campaigning – forward texts to a friend
- Use as helpline so individuals can get support; also can act as a referral for other professionals
- Auto responders set up to give out key information about trafficking
- Coordinate a referral system depending on a victim/survivors needs
- Immediate translation
- Geospatial mapping of texts

Free software to facilitate the effective use of SMS is available from several groups, including [Ushahidi](#) and [Frontline SMS](#).

## Monitor Human Rights Practices

### *What is human rights monitoring?*

Human rights monitoring is a unique activity that is separate from monitoring and evaluation, as well as from research. Human rights monitoring seeks to gather information about the human rights situation in a country or region over time through readily available methods, with the goal of engaging in advocacy to address human rights violations. It also involves a process of documenting human rights violations and practices so that the information can be categorized, verified, and used effectively. Human rights monitoring is sometimes called fact-finding. Fact-finding consists of investigating a specific incident or allegation of human rights violations, collecting or finding a set of facts that proves or disproves that the incident occurred and how it occurred, and verifying allegations or rumors.

Human rights monitoring should be based on principles of:

- Accuracy
- Confidentiality
- Impartiality
- Gender-sensitivity

Although monitoring human rights of women should be a state responsibility, monitoring by community-based organizations and non-governmental organizations can also produce an important perspective. Informal justice systems themselves should also take



on the role of self-monitoring and reviewing how they impact women's safety and human rights.

Efforts to monitor human rights in the informal sector are few, but emerging.

**Example:** in Timor Leste, the [Judicial System Monitoring Program](#) interacts with chief's *suco* councils. Reports from this monitoring programme have been used to institute reforms and to increase the number of women elected to community governance bodies, including the informal judicial body. In Bangladesh, [Ain O Salish Kendra](#) helps train local committees, sometimes all women, to monitor *shalish* proceedings and conduct informal education on women's rights for those involved in the proceedings

Sources: Wojkowska/UNDP, 2006; Australian Agency for International Development, 2008.

Monitoring violence against women can be very challenging because of the social stigma attached to these issues, underreporting of violence, and male dominated power structures in communities. Key principles for monitoring violence against women include (Amnesty International and CODESRIA 2000):

- Build contacts with women's NGOs, women activists, and women contacts in all areas of the country.
- Ensure that the fact-finding delegation is comprised of women, and include men and women delegates with experience in dealing with women's human rights violations; seek contact with women from the area.
- Organize focus groups composed of women to develop a better understanding of the situation and explain your research.
- Be aware and knowledgeable about social and cultural attitudes attached to women, sexual violence, rape, and sex in the region or community.
- Ensure that women's rights violations are properly documented; discrimination may exist in the laws and constitution, in the beliefs of society, in cultural practices, in access to economic resources and legal systems, and in family relations.
- Maintain confidentiality and safety of any participating survivors.

Additional resources on human rights monitoring include:

- ***Documenting Women's Rights Violations by Non-state Actors*** (Rights and Democracy, 2006). Available in [English](#) and [French](#).
- ***Documenting Human Rights Violations by State Agents: Sexual Violence*** (Amnesty International and International Centre for Human Rights and Democratic Development, 1999). Available in [English](#).
- ***Documenting the Implementation of Domestic Violence Laws: A Human Rights Monitoring Methodology*** (The Advocates for Human Rights, 2011). Available in [English](#).

- ***A Practitioner’s Guide to Human Rights Monitoring, Documentation, and Advocacy*** (The Advocates for Human Rights, 2010). Available in [English](#).
- ***Training Manual on Human Rights Monitoring*** (United Nations, 2001). Available in [Arabic](#), [English](#), [French](#), [Russian](#), and [Spanish](#).
- ***Events Standard Formats – A Tool for Documenting Human Rights Violations*** (HURIDOCs 2010). Available in [English](#).
- ***New Tactics – Documenting Violations: Choosing the Right Approach*** (Center for Victims of Torture, 2009). Available in [English](#).
- ***Familiar Tools, Emerging Issues: Adapting traditional human rights monitoring to emerging issues*** (Pretholdt, 2004). Available in [English](#).
- ***Ukweli: Monitoring and Documenting Human Rights Violations in Africa*** (Amnesty International and CODESRIA 2000). Available in [English](#).

### ***CEDAW and Monitoring Informal Mechanisms***

Monitoring of women’s rights, including the right of women to be free of violence, in the informal justice sector should relate back to [CEDAW](#) provisions on this topic, specifically:

Article 5(a), which obligates States Parties to take all appropriate measures:

To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

Article 13, which notes that women have an equal right to enjoy all aspects of cultural life;

Article 15, which states that

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals; and

Article 16, which obligates States parties to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations,

And, the [CEDAW Committee’s General Recommendation 21](#), which expands upon articles 15 and 16 at length, as well as [General Recommendations 12 and 19](#) on

defining violence against women and state responsibilities related to legislation on violence against women.

### ***Monitoring and Regional Instruments***

Human rights monitoring of informal systems should go beyond CEDAW and also incorporate the provisions of regional instruments. CEDAW does not resolve, or provide sufficient direction to resolve, many of the cases that arise when gender equality and “culture” come into conflict (Merry, 2006; Bond, 2010). Reservations to CEDAW made by many countries also limit its effectiveness in addressing conflicts between informal justice practices and gender equality. Regional instruments on women’s rights may be more helpful in providing direction when working on informal justice sector reform, and may in fact expand some of the protections in CEDAW. For example, advocates may want to refer to:

- [Protocol to the African Charter on the Rights of Women](#)
- [Southern African Development Community Addendum on Violence Against Women](#)
- [African Charter on the Rights and Welfare of the Child](#)
- [Organization of American States Convention of Belem do Para](#)
- [Council of Europe Convention on preventing and combating violence against women and domestic violence](#)

Often the goal of human rights monitoring is to present information to a national, regional or international human rights body. Tools for organizations wishing to present monitoring reports to regional and international bodies include:

- ***Guide to International Human Rights Mechanisms*** (The Advocates for Human Rights, 2010). Available in [English](#).
- ***Documentation Research Guide*** (United Nations, 2011). Available in [English](#) and [French](#).
- ***Producing Shadow Reports to the CEDAW Committee: A Procedural Guide*** (IWRAW, 2009). Available in [English](#).

## INFORMAL SECTOR: MONITORING AND EVALUATION

Many of the same principles apply to monitoring and evaluation in the informal sector as in the formal justice sector, although there are some unique challenges that one may confront in the informal sector.

Click on the following links for general information about [baseline studies](#), [monitoring, and evaluation](#).

### Baseline Studies

The specific baseline data collected will depend on the [goals](#) of the programme to be implemented. Baseline studies of the informal justice sector and violence against women should consider gathering data about:

- Prevalence of violence against women and girls, including prevalence of specific types of violence in the target community
- Characteristics of women and girls experiencing the highest rates of violence
- Characteristics of perpetrators engaging in violent behaviour
- Attitudes of key stakeholders about causes and consequences of violence against women and girls
  - Key stakeholders include women and girls, informal justice practitioners, advocates and civil society leaders, men, elders, faith leaders
- Attitudes of key stakeholders about remedies for violence against women and girls
- Number of cases of violence against women moving through the informal system
- Informal practitioners' knowledge of human rights principles and obligations
- Description of the typical handling of a case of violence against women in the informal system, including roles, participation of women, survivor support, record keeping, types of remedies available
- Description of the interaction between the formal and informal system
- Description of availability, quality, and costs of legal and advocacy services for survivors
- Description of availability, quality, and costs of other services for survivors, including shelter, accompaniment and social support, or financial support

#### Uganda – Measuring Awareness of Human Rights of Women and Children

The [Foundation for Human Rights Initiative](#) focuses on access to justice for socially deprived women and children in 6 districts in Uganda. In 2009, the group conducted a baseline study in one of the six provinces to gather initial data about human rights violations against its focus population. The study used key informant interviews, focus groups, and review of other reports to gather data for its baseline report. The baseline study documented the large gap between urban and rural residents related to human

rights awareness, and also documented the perceptions of community members and stakeholders relative to redress mechanisms for violence against women.

Survey instruments and focus group guides from FHRI are available in the appendices of their [Baseline Study Report](#).

Source: [Foundation for Human Rights Initiative](#).

### **DRC – Baseline Study on Engaging Men to Change Attitudes**

[Women for Women International](#) runs a Men’s Leadership Program in the Democratic Republic of Congo that focused on changing gender norms as well as community attitudes around justice for sexual violence, including those of legal system leaders. The programme was the result of an evaluation of programming targeting women only. During the evaluation, women asked for assistance in working with the men in their communities to change attitudes. At the beginning of the Men’s Leadership Program, Women for Women International conducted a baseline survey with 392 male community leaders culled from five key sectors: government, religious, traditional, security—including the police and military—and civil society. The survey revealed a high level of agreement among respondents about the need for communities and civil society organizations to be actively involved in the reintegration of survivors of gender-based violence. The men surveyed, however, were deeply divided in the ways they perceived the status of women, their roles in society and male authority. For example, 56.2% of respondents agreed with the statement “There is little that women have to contribute to community reconstruction and development.” And 86.3% of respondents agreed with the statement that “Men are the heads of households and the wives must obey and submit to them,” an attitude that clearly results in violations of women’s human rights. The data from the baseline study was later compared with an external evaluation at the end of the project. The evaluation revealed some changes, especially at the level of individual relationship between men and women in the community. But the evaluation also revealed that long-held beliefs about the role of women change slowly.

Source: Women for Women International. 2007. [Ending Violence Against Women in Eastern Congo](#).

### ***Data Collection and Indigenous Peoples***

Many informal sector initiatives work with indigenous communities. Data collection related to violence against indigenous women should comply with the recommendations of the Expert Workshop on Data Collection and Disaggregation for Indigenous Peoples (International Indigenous Women’s Forum (FIMI), 2006), which calls for data collection methods that:

- respect the principles of self-determination and free, prior, and informed consent;
- incorporate Indigenous Peoples as equal partners in all stages of data collection, including planning, implementation, analysis, and dissemination, with appropriate

resourcing and capacity-building to enable Indigenous Peoples to participate effectively;

- are conducted in Indigenous languages to the extent possible and, where no written language exists, employ local Indigenous persons as translators, interpreters, and advisors to assist in the collection processes;
- include indicators of particular significance to Indigenous Peoples, such as access to territories and natural resources;
- analyze data in ways that account for the full diversity and demographic profile of Indigenous communities, including gender and stage of life, as well as people with disabilities, and Indigenous Peoples in rural and urban areas, including Peoples who are nomadic, semi-nomadic, migrating, in transition, and displaced; and
- recognize that the process of data collection is critical to the empowerment of communities and to identifying their needs, and respect Indigenous Peoples' right to have data (primary and aggregated) returned to them, for their own use.

## Monitoring

Monitoring of reform programmes generally should focus on whether advantageous aspects of the informal system are being improved while work is progressing on eliminating aspects of the system that harm women and/or do not comply with international human rights norms. Monitoring the progress of programmes in the informal sector builds on the baseline data collection. Monitoring focuses on gathering data to assess progress towards outcomes, factors contributing to or impeding achievement of outcomes, partnerships strategy, engagement of women and girl survivors, and lessons learned for wider sharing.

Some key indicators, depending on the programme and the informal justice mechanism, might include (Penal Reform International, 2000, pp.160-66):

- increased safety, security and access to justice in the geographical area covered by the justice forum
  - women and girls report experiencing less violence
  - community perceives violence against women and girls to be decreasing
- increased application of principles of women and girl's fundamental human rights by the forum
- voluntary nature of the forum
  - awareness that no person should be forced physically to appear or to abide by any decision of the informal forum with the understanding that perpetrators would be immediately referred to the formal justice sector if they did not appear as scheduled
  - trust that no person refusing to appear or to abide by any decision will be physically compelled to do so with the understanding that perpetrators who did not abide by decisions of the informal justice forum would be immediately referred to the [formal justice](#) sector
- increased gender-equitable decision-making
  - a positive change in attitudes towards the rights of women, children and other minority-status groups

- an awareness and acceptance of the principle of “equality before the law”;
- a positive change in the way in which cases involving women and girls are dealt with under the informal forum
- the adoption of a code of ethics which recognizes the equal rights of women and girls
- greater participation of women and girls
- greater availability of alternatives such as and legal assistance, paralegals, and advocates
- the awareness of women and girls of these alternatives
- increased use of these alternatives by women and girls
- the absence of physical punishments by the forum
  - a positive change in attitude towards the non-use of physical punishment;
  - instances where the formal state system has intervened, for example,
  - charges being laid for the illicit use of such punishment.
- improvement to any other weaknesses specific to the particular forum
- a high degree of community participation in the decision-making process when appropriate
- increased confidentiality for survivors of violence
- increased survivor satisfaction with the informal process
- increased capacity to manage cases efficiently and to implement improvements on the basis of self-assessment
- an enhanced relationship between the formal and informal sectors;
- a draft of a code of ethics and procedural guidelines
- the keeping of records of cases registered, including names of parties, type of case, etc.
- the keeping of records containing a brief statement of the facts of the case established during hearing, and any agreement reached
- regularization of times and places where cases are heard, aimed at maximizing participation by all sections of the community when appropriate
- regularization of procedure for selecting decision-makers/mediators/arbitrators
- regular public meetings to review and discuss how the forum is progressing and any changes to be made or action to be taken in relation to safety, security and justice

### **Ethiopia – Monitoring Community Campaigns Against FGM**

A campaign to abandon female genital mutilation was begun in the Afar region in the year 2000. The campaign was mainly spearheaded by religious leaders, who worked to inculcate an understanding among their more conservative counterparts, clan leaders, and the community at large that the practice is not supported by Islam. The campaign continued for six years, culminating in a conference in 2006 where consensus was reached to totally abandon FGM in the region. The conference involved senior officials of the regional government, zonal administrators, *woreda* (district) and *kebele* (sub-district) officials, and religious and clan leaders. A government regulation reaffirming the Penal Code of Ethiopia (ratified in 2005), which criminalizes the practice, was also passed.

With a strong national foundation for the eradication of FGM, UNFPA and UNICEF launched a joint programme to support implementation of the law. The programme focused on gaining the support of an initial core group of community members, which decides to abandon the practice and then helps mobilize a sufficient number of people to facilitate a tipping point – enough of a consensus to create a rapid social shift on the norm.

Structures have also been put in place on the ground to monitor the implementation of the Joint Programme. Anti-FGM committees have been set up at the kebele level made up of the clan leader, a community elder, two former circumcisers, and the Kadi (local judge). There are also anti-FGM village committees composed of two former circumcisers, a village elder, clan leader, and the religious leader in the community. The members of the committees teach the community about the consequences of FGM and report cases when they see evidence of it.

Quarterly review meetings are held with the aim of giving refresher training to help committees address the challenges they encounter in the course of their work. The review meetings also serve as forums to evaluate progress. The review meetings are facilitated by members of the [Afar Region Anti-Harmful Traditional Practices Committee](#). There have been cases where officials as high as the Vice-President of the region and the Vice-President of the Islamic Affairs Supreme Council have facilitated the review meetings, thus showing serious commitment in the region to end the practice. In the villages, uncircumcised and newborn girls are now being registered, a record which serves as a follow up mechanism to protect them. The registers are reported on a quarterly basis.

Monitoring work is being undertaken on a regular basis together with the woreda administrations. The monitoring work has been integrated in the routine works of the woredas. When the woreda and kebele administrations hold their periodic meetings, FGM is discussed as one development issue. Moreover, a regional network of governmental and civil society organizations working on the abandonment of harmful practices has been established to create a common understanding and approach in the quest to achieve total abandonment.

Source: UNFPA. 2010. [Abandoning Female Genital Cutting/Mutilation in the Afar Region of Ethiopia](#).

## Evaluation

Effective programme evaluation can:

- Support programme improvements so as to enhance outcomes for women.
- Document programme knowledge for dissemination and applicability in other contexts – how can others learn from our experiences and apply our models to their local problems?



- Support accountability – were resources expended in the manner planned and did the resources contribute to achieving programme goals? Why or why not?
- Provide information on results for donors and other audiences.

The United Nations Development Programme [Handbook on Planning, Monitoring and Evaluating for Development Results](#) includes a detailed description of general considerations when creating an evaluation methodology. The UN Women website on [gender-responsive evaluation](#) provides guidance on integrating a women's rights perspective into evaluation.

Specifically related to violence against women in the informal sector, evaluations overall should examine whether:

- women and girls are safer in their homes and communities as a result of the programme implementation;
- [mediation and restorative justice](#) practices are utilized; these should never be implemented in cases of violence against women and girls.
- women and girls' human rights are recognized and supported when they experience violence;
- women and girls are better able to access justice and support when they experience violence;
  - this might include improvements in physical access, financial access, timeliness, confidentiality, and supportive services depending on the programme goals.
- perpetrators are subject to effective sanctions that deter future violent behaviour; and attitudes towards violence against women and girls have changed in a positive direction.

### Sample Evaluation Interview Questions (UNDP, 2010)

#### *Interview Guide for Beneficiaries*

Have you ever heard of the [community court programme]? Were you involved in this process? How?

What are your observations of the [community court programme]? What do they do? Is it important? Why/why not?

Have they helped you? How have they treated you? Was the process fair? Are you happy with the outcome? If you had another problem like this, would you go to them again?

What process do they use to come to agreements?

How do you see the effectiveness of the project? Any successes/challenges/constraints pertaining to project implementation? What contribute to the success you observe?

Are there any organizations doing similar work? Is the work of [the community court programme] the same or different?

Have you seen them involved in other situations? In what types of situations have they been involved? Appropriate or not?

Do you think the [community court programme] should be continued? Do you think you would do something differently in the future or the same? Why and how? What are the best practices from this process you observed?

### ***Evaluation Challenges in the Informal Sector***

Challenges in programme evaluation mirror many of the challenges in programme implementation in the informal sector including logistics, participation, and working with low literacy populations.

- Many programmes in the informal sector are community-level trainings. Tracking down rural, poor participants, especially women and girls, after-the-fact may be difficult or impossible in some cases, unless detailed contact information was recorded during the training.
- Many community members are not familiar with the purposes of evaluations or may not have participated in surveys or structured interviews before. Explaining the purpose of the evaluation can be a challenge, as can ensuring that respondents do not simply tell the evaluator what they think the programme organizers want to hear.
- Especially in rural communities, accessing participants to conduct the evaluation can be a challenge, involving significant travel time.
- If participants received incentives to participate in a particular training or activity, they may expect similar incentives to participate in an evaluation of that process. This expectation should be anticipated and addressed early on.
- Participants may have low literacy levels and evaluators should plan for this by adapting their evaluation methods accordingly.

These challenges highlight the importance of including an evaluation plan from the beginning of the programme and ensuring that considerations for the logistics of an evaluation are part of the implementation of the programme, such as:

- Conducting pre- and post-programme assessments immediately before and after the implementation of the programme.
- Talking with programme participants about the fact that the programme will be evaluated at some point in the future and letting them know it is a part of the programme activities.
- Talking with participants about how they think the programme could most effectively be evaluated during the implementation process.
- Identifying control group communities in advance of programme implementation and considering early on how to garner their participation when they have little or no familiarity with the programme.

- Ensuring that evaluators have familiarity with the communities and cultures where they will be gathering evaluation data, so that they can make an instinctual assessment of whether participants understand the questions and are giving responses that reflect real results, instead of what evaluators want to hear.
- Keeping data collection instruments short, simple, and focused on only the most pertinent information.
- Considering what type of sample size will be needed to meet the goals of the evaluation – for example, will feedback from 30% of participants be enough? 5%? 90%? Plan for how to access the desired sample.

(Interview with Margaret Snoeren, American Bar Association Rule of Law Initiative, January 25, 2011.)

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