



SURVIVOR-CENTRED JUSTICE FOR GENDER-BASED VIOLENCE IN COMPLEX SITUATIONS



Creating a Culture of Justice
International Development Law Organization

The Global
Women's Institute

THE GEORGE WASHINGTON UNIVERSITY

Gender and International Criminal Law

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Background

- Women and girls' vulnerability to violence is exacerbated in complex situations, such as conflict, organized crime, health emergencies and the climate crisis, where GBV is more common and more severe.
- In complex situations, women face heightened difficulties in accessing justice and protection due to weakened justice systems or disrupted justice and service delivery, as well as low levels of trust in state institutions. Other challenges include the inability or unwillingness of states to address GBV, particularly in conflict situations, or the de-prioritization of GBV responses, as evidenced during the COVID-19 pandemic.
- Thus, In situations of crisis, women are more likely to experience violence and less likely to receive justice.

Report Overview

The International Development Law Organization (IDLO) and the Global Women's Institute (GWI) at George Washington University, conducted research in six countries across the globe with the aim to identify survivor-centred approaches to addressing GBV in complex situations.

Available: <https://www.idlo.int/publications/survivor-centred-justice-gender-based-violence-complex-situations>

Six case studies in countries of different types of complexities:

- Afghanistan
- Honduras
- Papua New Guinea
- Philippines
- South Sudan
- Tunisia

Complex settings include situations of **conflict, organized crime, climate disasters, and health emergencies**, often intersecting with contexts of **legal pluralism and political transition**.

The paper,
structure and
content

- Chapter 1.** Access to Justice for GBV Survivors in Complex Situations: Key Concepts and Framework of Analysis
- Chapter 2.** International standards on ensuring justice for GBV survivors
- Chapter 3.** Setting the Scene-Justice Mechanisms Addressing GBV Across Complex Situations
- Chapter 4.** Legal Frameworks to Address GBV
- Chapter 5.** Justice Mechanisms - Constraints and Opportunities for Women's Access to Justice in Complex Settings
- Chapter 6.** Services for GBV Survivors in Complex Settings
- Chapter 7.** Primary Prevention of GBV in Complex Settings
- Chapter 8.** Key findings and recommendations
- Conclusion**

Key Questions

- What are the main **challenges** for justice mechanisms in addressing GBVAWG in complex situations?
- What **approaches** work or show promise for improving access to justice for survivors of GBVAWG in complex situations?
- What justice **innovations** have been shown to increase the effectiveness of the justice system in responding to GBVAWG in complex situations?

What does
access to
justice for
Survivors
Mean?

Important elements of international standards on state accountability

- **All forms of GBV** against women must be defined as crimes.
- Clear criminal law on **rape and sexual violence** (based on the lack of freely given consent)
- Effective **investigation and prosecution**
- **Protective measures** for women complainants and witnesses to GBV before, during and after legal proceedings
- **Transformative remedies** to deal with root causes of GBV
- Eradication of **gender stereotyping** in laws, in the judiciary and in the wider society
- Role of **feminist organizations** in justice reform
- **Gender balance in the judiciary**

Key aspects of a survivor- centered approach



A survivor-centered approach to justice is necessarily multi-faceted and subjective. These aspects of a survivor-centered approach were suggested by the participants at the Expert Group Meeting convened by IDLO and GWI on 22 July, 2021.

GR35 – “an approach centred around the victim/ survivor”.

- Prioritizing women’s safety and security and guarding against backlash
- Collaborating with and supporting local women’s organizations who are at the forefront of responding to GBV
- Supporting women’s mobilization against GBV
- Decolonizing and building the GBV evidence base
- Avoiding language that perpetuates the stigma associated with GBV
- Accommodating and addressing intersecting forms of discrimination and marginalization

Survivor
Centered
Approach in
research

Guiding Principles in Working with Survivors and Witnesses of GBV

1. **Ensure access to services** – health, psychosocial, legal/security, safehouse/shelter, livelihood
2. Ensure a survivor centered approach – **give the power back to the survivor** – listen, present options of support, ensure informed decision making
3. **Ensure Safety** – facilitate the survivor feeling safe at all times
4. **Ensure Confidentiality** – (for the survivor and her family) Not disclosing any information at any time to any party without the informed consent of the person concerned.
5. Actions are to be guided by **respect**
6. **Non-discrimination** - Survivors of violence should receive equal and fair treatment regardless of their age, race, religion, nationality, ethnicity, sexual orientation or any other characteristics

To be treated
with dignity
and respect

To choose

To privacy and
confidentiality

To non-
discrimination

To information

Methodology

The research team developed semi-structured interview questionnaires for key informants and focus group discussion guides which included participatory approaches. Informed consent was obtained from each participant. Interviews and focus group discussions were audio recorded with permission, and researchers took detailed notes. These notes were coded and analyzed by the research team using qualitative data software Dedoose.

Desk review

International legal standards, reports, overview of survivor-centred practices in rule of law and justice programming

Country context studies

National researchers provided an overview of the legal, policy and institutional context related to GBV in the six focus countries.

51 Key informant interviews

In-depth, semi-structured interviews with 57 interviewees across the six study countries (in some case, two people from the same organization or institution were interviewed at the same time). A diverse range of stakeholders were interviewed from government (13), civil society (21), academia (9) and multi-lateral organizations (8). In total 50 women and 7 men were interviewed.

6 Focus group discussions (FGDs)

FGDs were conducted with a total of 35 participants, who were members of the judiciary (4), lawyers (13), women's organisations (11), forensic specialists (2), international humanitarian practitioners (3), academics (1), gender specialist (1). FGDs were conducted in Afghanistan, Honduras, South Sudan and Tunisia.

Expert group meeting: An expert group meeting with 30 participants was convened on 22 July 2021.

Several tools were developed to collect data on justice responses to gender-based violence from the perspective of navigating the justice system as a survivor.

- **Comprehensive questionnaire for key stakeholders.**
Structure:
 - General
 - Laws
 - Implementation of laws
 - Justice actors
 - Specialized mechanisms
 - Informal/ customary actors
 - Protection orders
 - The role of women's/feminist groups/movements
 - Additional Specific questions for justice actors on investigations, prosecution and penalties/ sanctions
- **Guide for focus group discussions with participatory exercises: free listing, mapping, open ended stories** (“I’m going to read the beginning of the story about a woman similar to your community. I need your help in filling out the story as if this were your community ...)

Methodology

- Conducting research during COVID-19
- Data collection in Afghanistan – prior to August 2021
- Ethical considerations – no new interviews with survivors, but used data from previous research (GWI)

Justice Gaps and Challenges

Legal frameworks

While all countries reviewed in this report have adopted special laws to address GBV (except for South Sudan), inadequacies persist in these countries' criminal law provisions: procedural rules are often insufficient, and emerging forms of violence lack recognition. Other legal obstacles include discriminatory standards deeply entrenched in broader legal frameworks, including family and personal status laws.

Social and cultural barriers

Patriarchal social norms and structural gender inequalities, such as the normalization of many forms of GBV against women, and pressure on victims not to report, permeate families and communities and impede GBV survivors' access to justice. Economic barriers often prevent survivors from accessing formal justice. Low awareness among survivors of laws available to protect them, where and how to report crimes, and of available support services creates additional obstacles.

Gaps in essential services provision

Gaps in provision of essential support services for survivors accessing justice are wide. There is a lack of a multi-sectoral coordination framework for survivor-centred services and of a state authority responsible for its implementation. Functional, easily accessible referral pathways are absent, resulting in gaps between state services, humanitarian actors, and local organizations, and leaving the assignment of responsibility unclear in the handling of GBV cases and referrals procedures.

Institutional challenges

Lack of integrity within formal justice actors, and their lack of capacity to handle GBV cases, fuels distrust in the formal justice system. Major challenges include corruption and lack of judicial independence; lack of gender sensitivity and mistreatment of survivors by the police; limited financial resources and forensic specialist capacity, and poor information systems; lack of data collection to track national trends and respond to GBV; procedural barriers, including evidentiary challenges and lack of adequate procedural safeguards for victims; and low penalties and impunity.

Primary prevention

The countries examined in the report lack comprehensive, context-responsive, long-term national prevention strategies and frameworks, encompassing primary prevention, and addressing gender inequality, harmful social and gender norms, power imbalances, and the culture of acceptance of GBV. At the local and community levels, there are insufficient GBV awareness-raising activities and efforts to promote positive social norms through a whole-of-community approach that would empower survivors to seek support and access justice.

Approaches and Practices to Enhance Access to Justice for Survivors

Law reform to address GBV

- Revising criminal law to include offenses related to GBV
- Reforming existing civil and family laws to reduce discrimination against women and girls and strengthen women's rights within the family
- Enacting special laws on violence against women
- Strategic litigation to set precedent on GBV

Primary prevention

- Increased attention on developing prevention models appropriate for humanitarian settings
- A gradual shift from focusing on awareness-generation programmes to community-based prevention and economic empowerment programmes for women and girls
- Building upon evidence-based prevention programmes that have been implemented in contexts of protracted conflicts

Approaches and Practices to Enhance Access to Justice for Survivors

Services for GBV survivors in complex situations

Quality essential services to address the short-, medium- and long-term needs of survivors in accessing and navigating justice should include:

- specialized women's organizations and civil society actors
- legal aid, including case management and legal accompaniment
- psychosocial counseling
- one-stop centres
- shelters
- health services
- multi-sectoral coordination
- referral pathways

Measures to increase access to justice

- Specialized police and prosecution units
- Specialized GBV Courts
- Humanitarian sector approaches to addressing justice for GBV, such as including rule of law and justice coordination mechanisms in UN peacekeeping missions or in humanitarian assistance through the GBV Sub-cluster
- Legal aid, paralegals and other community-based accompaniment and access to justice support
- Increasing access to protection orders
- Engagement with customary and informal justice
- Training of justice providers
- Specialized mechanisms for data collection and review

Recommendations



Develop and implement a comprehensive survivor-centred justice response to GBV

that meets the needs of diverse women through an intersectional approach delivered using effective gender-responsive laws and justice institutions.



Foster integration of services for GBV survivors

in ways that enhance prevention, protection, and access to redress through both formal and informal pathways to justice.



Strengthen legal empowerment of women

by raising awareness of laws and rights and providing legal support services directly to GBV survivors.



Support women's collective action and advocacy

by safeguarding civic space and providing targeted financing for local women's organizations and essential community networks.



Expand GBV monitoring and data collection,

and strengthen research on what works, to ensure that policies and practices are evidence-based and can be measured for accountability.