

GBV AoR HELPDESK

Gender-Based Violence in Emergencies

Learning Brief: Improving Justice Systems for GBV Survivors through Survivor-Centered Processes



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Introduction

Gender-based violence (GBV) is one of the most prevalent human rights violations globally, with risks for many forms of GBV increasing in humanitarian crises. An effective response to GBV requires a multi-sectoral service delivery model that uses a survivor-centered approach. This includes promoting the availability and accessibility of judicial services and processes that ensure all GBV survivors¹ are empowered to realize their rights to justice under the law.

Employing a survivor-centered approach to judicial processes can support a survivor's access to justice (if this is her choice) by addressing common barriers to justice, such as stigma and re-victimization, fear of retaliation, and lack of knowledge about legal procedures. Survivor-centered approaches can also improve survivor safety and security throughout judicial processes.

There are benefits as well for legal systems to employing survivor-centered approaches, such as improving evidence gathering, enhancing accountability of perpetrators, and increasing the efficiency of legal processes. A survivor-centered approach can support a more effective, impartial, and accessible justice sector.

This learning brief summarizes promising practices in applying a survivor-centered approach to judicial processes within a multi-sectoral service delivery model for GBV response. The brief first describes what a multi-sectoral service delivery model entails, and then provides an overview of key elements of a justice sector response to GBV. It moves on to explain what the survivor-centered approach entails, offering practical examples for implementing this approach in judicial processes. The learning brief concludes with a list of additional resources.

¹ In judicial processes, the term "victim" is used to refer to survivors of GBV, whilst GBV service providers use the term "survivor" to emphasize the agency and resilience of those who have experienced. This learning brief will be using the term GBV survivors to reinforce the concept of resilience and the survivor-centered approach to coordination and service delivery. (Reference: [GBV AoR \(2019\) Handbook for Coordinating Gender-based Violence Interventions in Emergencies](https://gbvaor.net/sites/default/files/2019-07/Handbook%20for%20Coordinating%20GBV%20in%20Emergencies_fin.pdf), p.14, https://gbvaor.net/sites/default/files/2019-07/Handbook%20for%20Coordinating%20GBV%20in%20Emergencies_fin.pdf).

Box 1. Understanding GBV

Gender-based violence (GBV) is an umbrella term for any harmful act that is perpetrated against a person's will and that is based on socially ascribed (i.e., gender) differences between males and females. It includes acts that inflict physical, sexual, or mental harm or suffering, threats of such acts, coercion, and other deprivations of liberty. These acts can occur in public or in private (IASC GBV Guidelines, 2015, <https://gbvguidelines.org/en/>).

The term 'GBV' originated and is most used to underscore how systemic inequality between males and females—which exists in every society in the world—acts as a unifying and foundational characteristic of most forms of violence perpetrated against women and girls. The United Nations Declaration on the Elimination of Violence against Women (DEVAW) defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women” (DEVAW, 1993, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women>).

DEVAW emphasizes that the violence is “a manifestation of historically unequal power relations between men and women, which have led to the domination over and discrimination against women by men and to the prevention of the full advancement of women.” Gender discrimination is not only a cause of many forms of violence against women and girls but also contributes to the widespread acceptance and invisibility of such violence—so that perpetrators are not held accountable, and survivors are discouraged from speaking out and accessing support. GBV impacts all women, regardless of economic status, race, and ethnicity. As a manifestation of gender inequality between males and females, GBV stands as a fundamental barrier to equal participation of women in social, economic, and political spheres. GBV impedes gender equality and the achievement of a range of development outcomes.

Of note, many forms of violence against men and boys have gendered elements, meaning the violence is related in some way to gender norms, roles, or masculinities. However, even though men are more likely to experience (and perpetrate) certain types of violence, they do not experience this violence because their status as males is subordinated and oppressed. As such, forms of violence that men experience are not based on gender discrimination against males. GBV is meant to highlight how gender discrimination and inequality frame women and girls' experiences of violence and make women and girls particularly at risk for certain forms of violence. Nevertheless, many principles of a survivor-centered approach can be used when supporting males' access to justice, as well as access to justice for groups who are marginalized for other reasons, such as homophobia and transphobia experienced by LGBTQ+ people. While this brief focuses on women and girls, it may also be used as a reference for good practices for any survivor of violence seeking fair treatment under the law.

What are multi-sectoral response services for survivors of GBV?

A multi-sectoral response to GBV recognizes that no single sector or agency can adequately respond to the multiple needs of GBV survivors. The multi-sectoral model calls for holistic inter-organizational and inter-agency efforts that center survivors in decision-making; promote community participation; and ensure cooperation, collaboration, and coordination across key sectors, including (but not limited to) health, psychosocial, security and legal/justice sectors.² Within these sectors, some highlights of response include:

² Adapted from the GBV AoR, 2019. *Handbook for Coordinating Gender-based Violence Interventions in Emergencies*, p.16, https://gbvaor.net/sites/default/files/2019-07/Handbook%20for%20Coordinating%20GBV%20in%20Emergencies_fin.pdf

- **Health services:** includes medical treatment, clinical management of rape, counselling, and specialized medical services to address survivors' specific health needs.
- **Psychosocial services:** includes mental health services, GBV case management, group psychosocial support, economic empowerment, and shelter programs for survivors.
- **Security services:** includes police and other law enforcement response, investigation, and protection measures to ensure the safety of GBV survivors.
- **Judicial and legal services:** includes legal aid, support for survivors in justice departments, court support and representation, and assistance with filing complaints and seeking justice.

According to the multi-sectoral model, the legal/justice sector services are situated in the wider response—they are one element of comprehensive care. It is important that no single sector acts alone within the multi-sectoral model; all are needed to ensure a full complement of services for survivors.



Figure 1: The multi-sectoral model. *Source: GBV AoR (2019) Handbook for Coordinating Gender-based Violence Interventions in Emergencies*

What are judicial sector response services for survivors of GBV?

The judicial sector response to GBV is integral to the multi-sectoral service delivery model. It refers to the use of legal and judicial processes to respond to cases of GBV, including criminal prosecutions and civil remedies. This response is an important aspect of addressing GBV, as it can hold perpetrators accountable for their actions and provide survivors with a sense of justice.³ Although a judicial response is not always preferred or necessary for survivors of GBV, States and judicial sectors must provide access to justice for survivors who can then decide on their preferred course of action.

Access to justice for survivors for acts of GBV requires that States implement a range of

Box 2. What is justice?

From a survivor's perspective, justice may serve many purposes and being survivor-centered means recognizing that justice is multi-faceted and subjective. For some survivors, justice may be tied to conviction and punishment of the perpetrator; yet for others it may be linked to truth, dignity, or the ability to tell one's story in a safe place.

Justice can be a vehicle for empowerment or a pathway towards simply feeling happier, healthier, and reconnected to the community. It may mean being able to seek a divorce and leave a violent spouse, having somewhere to live and being able to provide for themselves and their children, or it may mean acknowledgement of the harm done to them.

Source: GBV AoR (2020) Strengthening Access to Justice for Gender-Based Violence Survivors in Emergencies
<https://gbvaor.net/sites/default/files/2020-11/gbv-aor-helpdesk-strengthening-access-to-justice-24112020.pdf>

³ Adapted from the GBV AoR, 2019. *Interagency Minimum Standards for GBV in Emergencies Programming*, <https://gbvaor.net/gbvitems>. The minimum standards for justice and legal response are detailed on pages 76 - 82.

measures.⁴ These measures include, where necessary, amending national laws to ensure that acts of GBV are properly defined as crimes, and ensuring appropriate procedures for investigations, prosecutions, and access to effective remedies and reparation. The State and the wider justice sector, including legal aid service providers and rights-based organizations, must be able to, at minimum:

- Provide free or low-cost legal counselling, representation, and other court support to survivors of violence and their families.
- Review and revise laws that reinforce gender-based violence.
- Enforce laws that protect women and girls at risk of GBV, as well as boys subject to sexual violence, and other groups vulnerable to discrimination and violence based on sexual orientation and/or gender identity, including members of the lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) community, and adequately punish perpetrators.
- Monitor court cases and judicial processes to ensure that they are fair, equitable and responsive to survivors' needs.
- Provide orders of protection and other legal safety mechanisms for survivors; and
- Monitor perpetrators' compliance with court-ordered rehabilitation.⁵

These minimum requirements apply whether a GBV survivor is seeking judicial services in the context of civil or criminal lawsuits.⁶ Civil lawsuits may include divorce, separation of assets, child custody, and compensation for damages suffered by the survivor because of GBV. Criminal lawsuits can include assault and battery, sexual assault and rape, domestic violence, stalking, harassment, and human trafficking.

Typically, survivors can seek justice for civil cases (and sometimes criminal cases) not only through statutory justice mechanisms, which are formal legal systems established by the State, but also through traditional justice mechanisms, which are based on customary practices, traditions and rules of communities that have, over time, become customary law.⁷ In some settings, criminal cases may be designated by law as the responsibility of statutory courts, but in practice may still be addressed in traditional courts.

Both statutory and traditional courts tend to have strengths and weaknesses; however, traditional mechanisms are at higher risk of promoting community well-being over survivor well-being (even to the extent that survivors may be forced to marry their assailants, for example), and may support traditional patriarchal views that blame the victim (such as holding women accountable for their partner's violence). When building survivor-centered judicial systems, it is important to ensure all processes –whether in traditional or statutory systems – are fair, equitable, and responsive to survivor needs.

⁴ *Ibid*, p. 79

⁵ Excerpted from the UN Women's Virtual Knowledge Center to End Violence Against Women and Girls website, <https://www.endvawnow.org/en/articles/1503-the-multi-sectoral-model.html>

⁶ Laws and criminal justice systems vary across different countries; the specific types of civil or criminal lawsuits available to survivors will vary depending on their location. It is important to note that survivors can seek both criminal and civil justice for the violence they have experienced. See UN Women (2012) Handbook for Legislation on Violence against Women: <https://www.unwomen.org/en/digital-library/publications/2012/12/handbook-for-legislation-on-violence-against-women>

⁷ Definition drawn from United Nations (2016) Human Rights and Traditional Justice Systems in Africa, p.7, https://www.ohchr.org/sites/default/files/Documents/Publications/HR_PUB_16_2_HR_and_Traditional_Justice_Systems_in_Africa.pdf. See also Bell E. (2022) Tip Sheet: What are Community-Based Resolution Mechanisms? How are they used in relation to Gender-Based Violence? And how can survivors be centered when they are used? (GBV AoR Helpdesk). <https://www.sddirect.org.uk/resource/tip-sheet-what-are-community-based-resolution-mechanisms-how-are-they-used-relation-gender>

An important first step in ensuring safe and supportive legal processes for survivors is engaging community leaders. IMC has identified several strategies or approaches for engaging community leaders in supporting survivors' access to justice:⁸

- √ Facilitate community dialogues on women's rights and access to justice for women between leaders, women, and other community members.
- √ Organize trainings in GBV core concepts, including the principles of a survivor-centered response, where leaders are allowed space to reflect on how to better apply principles in justice proceedings .
- √ Organize trainings with expert facilitators in women's rights and gender-sensitive approaches to justice, such as gender-responsive decision-making, mediation, evidence assessment, and record-keeping.
- √ Organize meetings and trainings with representatives of formal justice mechanisms, to clarify relevant laws and policies and strengthen referral processes for survivors.
- √ Produce and share information sheets with simplified statutory codes or guides on relevant formal laws on the rights of women.
- √ Organize exchange visits with gender-responsive formal courts and informal justice forums to build mutual understanding and facilitate cross-system learning on how to be more gender-sensitive. Include women champions, community leaders, magistrates, or judges of informal justice forums.
- √ Support women-centered dispute resolution systems. Although uncommon, there are examples of women-centered dispute resolution systems that GBV teams might support.

Box 3. Working with Community Leaders to Support Access to Justice in Cameroon

A GBV program in the Far North region of Cameroon recognized concerns with the support survivors received in both formal and informal justice systems. The program organized a GBV core concepts training for the Ministry of Justice, who in turn agreed to co-facilitate a training with community leaders, focused on GBV core concepts and laws related to addressing GBV. Through the training, community leaders learned that crimes related to GBV should be referred to formal justice mechanisms. The GBV program also worked with ministries and leaders to strengthen processes for referring survivors between the community and district-level authorities. All parties agreed that a survivor interested in pursuing justice would be supported by a community leader and/or the head of a women's association to first visit the Ministry of Women's Empowerment and Family, who could then help a survivor to document her case and plan for an accompanied, and more supportive meeting with the Ministry of Justice.

Excerpted from: IMC, 2021, Response, p 80. <https://cdn1.internationalmedicalcorps.org/wp-content/uploads/2022/05/IMC-GBV-05->

⁸ The International Medical Corps has developed a resource aimed at safely and effectively engaging community leaders to advance GBV prevention and response in humanitarian settings. **The toolkit includes guidance and tools for GBV programs engaging with traditional justice mechanisms.** For access to the entire IMC toolkit, see IMC (2021) Traditions and Opportunities: A Toolkit for GBV Programs to Engage Community Leaders in Humanitarian Settings. <https://internationalmedicalcorps.org/traditions-and-opportunities-a-toolkit-for-gbv-programs-to-engage-community-leaders-in-humanitarian-settings/> For specific information about access to justice, see the Resource chapter of the toolkit, see <https://cdn1.internationalmedicalcorps.org/wp-content/uploads/2022/05/IMC-GBV-05-GBV-Response.pdf> For additional discussion of working with informal justice and alternative dispute mechanisms, see the GBV AoR's Inter-Agency Minimum Standards for Gender-Based Violence in Emergencies Programming, Guidance Notes on access to justice, p.81 (2019) https://gbvaor.net/sites/default/files/2019-11/19-200%20Minimun%20Standards%20Report%20ENGLISH-Nov%201.FINAL_.pdf

What is the survivor-centered approach to GBV?

A survivor-centered approach to GBV seeks to empower the survivor by prioritizing her rights, dignity, needs and wishes. It comprises four GBV guiding principles that apply to all aspects of GBV programming: safety, respect, confidentiality, and non-discrimination. The guiding principles must be considered in all decisions made, from the legal and policy level to the delivery of services for individual survivors.

The survivor-centered approach creates a supportive environment that promotes the survivor's agency when accessing services. Recognizing that experiences of GBV often affect survivors' sense of control, the survivor-centered approach aims to acknowledge and respect the survivor's autonomy and rights by ensuring that she is the primary actor and decision maker throughout the service delivery process.⁹ The GBV guiding principles that form the foundation of the survivor-centered approach are interrelated and mutually reinforcing. For example, confidentiality is essential to promote safety and respect.

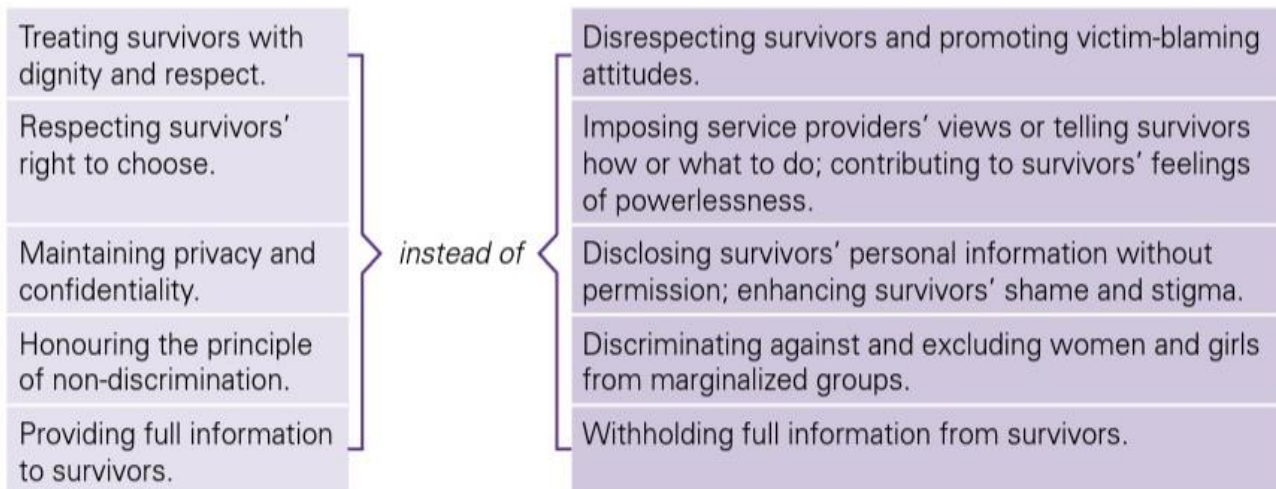


Figure 2. Summary of the GBV guiding principles. Source: GBV AoR, 2019. *The Inter-Agency Minimum Standards for Gender-Based Violence in Emergencies Programming*

Why should a survivor-centered approach be a foundation of GBV-related judicial processes?

There are many reasons why survivors of GBV and marginalized groups experiencing other forms of violence might opt out of receiving judicial service, or why these services might not be available to them in the first place, as detailed in Figure 3 below. Applying survivor-centered guiding principles to judicial services and processes empowers survivors to exercise their right to seek justice by addressing the various barriers and challenges survivors may face. This supports the delivery of justice, ultimately leading to a more effective and efficient justice system.

⁹ In the case of child survivors (survivors under the age of 18), specific protocols exist for informed consent and assent depending on their age and their ability to understand and agree to participate in services. Child and adolescent girl and boy survivors of sexual abuse have the right to have their best interests assessed and determined and taken as a primary consideration in all decisions that affect them. For more information, see IRC et al, 2017. *Interagency Gender-based Violence Case Management Guidelines*, http://www.gbvims.com/wp/wp-content/uploads/Interagency-GBV-Case-Management-Guidelines_Final_2017.pdf; IRC and UNICEF, 2012. *Caring for Child Survivors of Sexual Abuse: Guidelines for health and psychosocial service providers in humanitarian settings*, <https://gbvresponders.org/response/caring-child-survivors/>; CP Alliance, 2019. *Minimum Standards for Child Protection in Humanitarian Action*, Standard 9: Sexual and gender-based violence, <https://handbook.spherestandards.org/en/cpms/#ch001>.

Reasons why survivors might not want to pursue legal action	Practical barriers to accessing justice	Limitations and challenges within the judicial system itself
<ul style="list-style-type: none"> • Fear of retaliation • Unsafe and/or lengthy processes • Stigma and shame • Risks of re-traumatization and re-victimization at the hands of judicial personnel • Lack of trust in the justice system • Being required to tell their stories multiple times • Widespread impunity of GBV, violence against children, and/or violence against LGBTQ+ in their context 	<ul style="list-style-type: none"> • Lack of information about judicial processes and services • Insufficient financial resources • Lack of transportation 	<ul style="list-style-type: none"> • Limited capacity and resources, including limited reach and coverage of services within rural/remote communities, and inability include those without legal documentation in services • Lack of expertise and training for judicial personnel to handle GBV cases or cases of physical and sexual violence affecting other groups in a survivor-centered manner • Legal and cultural barriers such as: <ul style="list-style-type: none"> ○ Laws or norms that prevent victim-survivors from seeking redress, or ○ Laws that do not adequately address the root causes of GBV or other forms of violence affecting marginalized groups.

Figure 3. Reasons why survivors might not seek legal redress. Adapted from: UNODC (2019) *Handbook for the Judiciary on Effective Criminal Justice Responses to Gender-based Violence against Women and Girls*, https://www.unodc.org/pdf/criminal_justice/HB_for_the_Judiciary_on_Effective_Criminal_Justice_Women_and_Girls_Book.pdf

What are strategies for implementing a survivor-centered approach to GBV-related judicial processes?

There are various opportunities and strategies for judicial processes to implement a survivor-centered approach and promote a more efficient, fair, and equitable justice system. Some specific examples of how this can be done are highlighted below.

Ensuring survivor's safety

The physical and emotional safety and security of survivors must be a primary concern throughout the judicial process. This means that courts should take steps to ensure that survivors are protected from any harm,

retaliation, or intimidation before and during judicial proceedings. This must happen at the level of legal and policy reforms that protect survivors engaged in judicial processes, as well as in the availability of services that facilitate survivors' safety during judicial proceedings. Examples include:

- Ensuring the burden of proof in GBV cases falls on the State, not the survivor.
- Abolishing the requirements of corroboration and physical evidence in crimes of sexual assault that requires prosecutors to have independent evidence in addition to a victim's testimony. The requirement of corroboration fosters a climate of impunity for perpetrators of sexual abuse.¹⁰
- Issuing protection orders to protect survivors from further harm until (and even after) a decision has been reached by the court.¹¹
- Ensuring survivors can avoid any potential confrontations with perpetrators during court proceedings.¹² For example, the court may offer survivors the option of remote testimonies or order the perpetrator to be separated from the survivor during testimony. The court may also order the use of a physical barrier such as a screen to separate the survivor from the perpetrator during testimony.
- Having court advocates support survivors throughout judicial proceedings, including informing survivors of their rights, accompanying them to trial, explaining prosecutorial processes and decisions, and coordinating psychosocial support.¹³

Box 4. Enhancing survivor safety and well-being in South Africa

Since 2006, South Africa has established more than fifty service provision centers, named “Thuthuzela Care Centers”, to provide a full range of services for survivors, from counselling to legal and medical assistance. **These facilities also act as dedicated court-affiliated service centers for women and girl survivors of violence.** Within the Thuthuzela Care Centers, court advocates work to coordinate victim services and witness care throughout the criminal proceeding, and to coordinate support services so that survivors are safe – and not re-traumatized – while seeking justice. South Africa has also implemented other measures to protect the safety and well-being of GBV survivors in the justice system. These include the establishment of courts that are dedicated to handling sexual offenses cases, and the provision of specialized training to prosecutors and judges on GBV core principles and survivor-centered approaches to judicial services.

Source: South African Government's website; Thuthuzela Care Centers <https://www.gov.za/TCC>

¹⁰ Thomas, C. et al. (2011). Working with the Justice Sector to End Violence against Women and Girls. Justice Sector Module, p.78, https://www.ohchr.org/sites/default/files/Documents/Issues/Women/SR/Shelters/UN_Women_by_Cheryl_Team_working_with_justice_sector.pdf

¹¹ Protection Orders are legal documents issued by a judge or magistrate to protect the health and safety of a person who is alleged to be a victim of any act involving violence, force or threat that results in bodily injury or places that person in fear of death, sexual assault or bodily injury.

¹² Domestic Abuse Commissioner (2021) Understanding Court Support for Victims of Domestic Abuse; <https://domesticabusecommissioner.uk/wp-content/uploads/2021/06/Court-Support-Mapping-Report-DAC-Office-and-SafeLives.pdf>

¹³ For more information on the role of advocates, see UN Women's Virtual Knowledge Center to End Violence Against Women and Girls (2011) <https://www.endvavnow.org/en/articles/1024-working-with-victim-witness-advocates-on-maintaining-effective-communication-with-survivors.html>

Respect for survivor's dignity, wishes and choices

GBV survivors should be provided with necessary information and practical support to make informed decisions regarding their legal and justice options. Practical recommendations to ensure respect for the survivor's dignity, wishes and choices include:

- Informing survivors about all available services.
- Ensuring that survivors have the ability and agency to choose services they receive, including legal services.
- Ensuring survivors are supported with psychosocial support during judicial proceedings, such as through safe spaces.¹⁴
- Prohibiting the use of the survivor's sexual history, behavior, or reputation in the legal proceedings (see Box 3).
- Prohibiting defenses such as honor and provocation in cases of GBV.¹⁵
- Raising community awareness about the rights of survivors and options for pursuing legal redress.¹⁶
- Applying a trauma-informed lens to survivor care in judicial service provision, including ensuring survivors are not required to undergo multiple interviews.¹⁷ When judicial services require survivors to undergo multiple interviews, this can lead to negative effects on survivors and a compromised judicial process. Survivors may experience re-traumatization from repeatedly recounting their experience of violence and may also feel that they are being blamed or not believed when forced to tell their story multiple times. This can lead to feelings of shame, self-doubt, and a lack of trust in the justice system. In addition, conducting multiple interviews with survivors can be time-consuming and resource-intensive, which can lead to delays in the legal process and reduce the likelihood of a successful prosecution.

Box 5. Promoting survivor dignity and rights through "Rape Shield" laws

"Rape shield" laws are designed to prohibit or limit the use of the victim's sexual history, behavior or reputation that are unrelated to the subject of the legal proceeding. Such laws are based on an understanding that these forms of evidence are often used to undermine a victim's credibility and can also violate her privacy. Rape shield laws exist in Canada, the United Kingdom and the United States.

Source: Dr Shazia Choudhry (2018) *Women's Access to Justice: A Guide for Legal Practitioners*; <https://rm.coe.int/advanced-womens-access-to-justice-eng/16808e99ef>

¹⁴ For more information about the importance of ensuring safe spaces for women and girls, refer to: GBV AoR (2022) Understanding the core functions and differences between Women and Girls Safe Spaces and One Stop Centers; <https://www.sddirect.org.uk/resource/understanding-core-functions-and-differences-between-women-and-girls-safe-spaces-and-one>

¹⁵ Thomas, C. et al. (2011). Working with the Justice Sector to End Violence against Women and Girls. Justice Sector Module, p.86, https://www.ohchr.org/sites/default/files/Documents/Issues/Women/SR/Shelters/UN_Women_by_Cheryl_Team_working_with_justice_sector.pdf

¹⁶ GBV AoR (2019) The Inter-Agency Minimum Standards for Gender-Based Violence in Emergencies Programming, Guidance Notes on access to justice, p.79, https://gbvaor.net/sites/default/files/2019-11/19-200%20Minimum%20Standards%20Report%20ENGLISH-Nov%201.FINAL_.pdf

¹⁷ For more information, see UNODC (2019) Handbook for Court Support and Preparation Officers; https://www.unodc.org/documents/southernafrica/Publications/CriminalJusticeIntegrity/GBV/UNODC_PARTICIPANT_MANUAL_FINAL_WEB.pdf

Upholding confidentiality

Due to the sensitive nature of information about the survivors' experiences of GBV, inappropriate information sharing can have serious—even life-threatening—consequences for the survivor and for service providers.¹⁸ To limit the risk of harm, judicial processes must ensure that survivor's confidentiality is protected and their privacy is respected. This means safeguarding survivor data and disclosing information only with the informed consent of survivors.

In some contexts, State laws and policies mandate certain agencies and/or persons in helping professions (teachers, social workers, health staff, etc.) to report actual or suspected forms of interpersonal violence, including violence affecting specific groups (e.g., child and/or elder violence; sexual assault and rape; homicide). Mandatory reporting¹⁹ for children who cannot protect themselves and/or are not mature enough to make their own decisions can be important for their protection, as long as the reporting follows the principles of the best interest of the child. But for older adolescent girls and women who have the maturity to make decisions for themselves, mandatory reporting directly conflicts with the guiding principles of respect for confidentiality, dignity, and rights of survivors, and can put survivors at further risk. Mandatory reporting can also result in prosecutions that the survivor does not wish to be involved in, which can jeopardize the aim of holding perpetrators to account. Some recommendations for upholding survivor confidentiality in judicial processes include:

- Treating all information relating to survivors of GBV as confidential and storing it securely.
- Providing *in-camera* proceedings²⁰ to protect the confidentiality of witnesses in cases involving GBV. Even when the general rule is for public sessions, judges and defense counsel should accept the need for entirely closed or mixed open/closed sessions for survivors testifying.²¹
- Supporting survivors to understand their options and any implications of disclosing incidents of GBV, including mandatory reporting obligations, as part of any initial interview, *before* collecting any incident information from a survivor.
- Identifying and addressing survivors' barriers to making informed decisions about and accessing justice for different types of violence (e.g., intimate partner violence, sexual assault, trafficking, female genital mutilation/cutting).²²
- Ensuring that service providers working directly with survivors of GBV are informed about, and comply with, a code of ethics that outlines confidentiality and the process for the exchange of

¹⁸ UN Women, UNFPA, WHO, UNDP and UNODC (2015). Essential Services Package for Women and Girls Subject to Violence: Core Elements and Quality Guidelines. <https://www.unfpa.org/essential-services-package-women-and-girls-subject-violence>

¹⁹ Mandatory reporting refers to "legislation passed by some countries or states that requires individuals or designated individuals such as health-care providers to report (usually to the police or legal system) any incident of known or suspected domestic violence or intimate partner violence. In many countries mandatory reporting applies primarily to child abuse and maltreatment of minors, but in others it has been extended to the reporting of intimate partner violence." Source: GBV Responders (2018) Types of mandatory reporting, word document can be downloaded here: <https://gbvresponders.org/wp-content/uploads/2018/12/2-Types-of-Mandatory-Reporting-A.docx>

²⁰ In camera is a Latin term which literally translates to "in chambers" but carries the meaning "in private". Portions of a case held in camera are held in private before a judge where the press and the public are not allowed to take part. Definition from Cornell Law School

https://www.law.cornell.edu/wex/in_camera#:~:text=In%20camera%20is%20a%20Latin,not%20allowed%20to%20take%20part

²¹ UNODC (2019) Handbook for the Judiciary on Effective Criminal Justice Responses to Gender-based Violence against Women and Girls:

https://www.unodc.org/pdf/criminal_justice/HB_for_the_Judiciary_on_Effective_Criminal_Justice_Women_and_Girls_E_ebook.pdf

²² *Ibid*

information (in accordance with existing legislation), including what information will be shared, how it will be shared and who it will be shared with.²³

- Addressing harmful attitudes and practices by members of the judiciary that undermine the confidentiality and other rights of survivors. This can be achieved by adopting clear guidelines and protocols to ensure that members of the judiciary understand their obligations about maintaining survivor confidentiality; offering training and education for members of the judiciary on upholding a survivor-centered approach; and providing survivors with access to an effective complaints mechanism to report any breaches of confidentiality and other survivor rights by members of the judiciary.

Ensuring non-discrimination

Legal aid providers should not discriminate against survivors based on their gender, age, race, ethnicity, religion, sexual orientation, or any other factors. All legal and judicial aid services must be available to all survivors, which requires that all justice systems are secure, affordable, and physically accessible to survivors. Ongoing monitoring should identify strategies to meet the specific needs of different groups of survivors, including women and girls who face intersectional or compounded forms of discrimination, such as ensuring women and girls with disabilities can access court services.²⁴ Other general recommendations for judicial actors to ensure non-discrimination in survivors' access to judicial services include:

- Seeking out and addressing survivors' concerns related to accessing justice, including physical access, costs, and other factors.²⁵
- Providing free-of-charge or low-cost counselling about all aspects of the legal process and court representation to ensure that legal aid services are easily accessible and affordable to GBV survivors.²⁶
- Providing services in multiple languages and ensuring that interpreters are available to support survivors when needed, at no or low charge.²⁷
- Ensuring that legal aid providers are present in areas where survivors can easily access them.

It is important to note that in humanitarian contexts, barriers for women and girls to effective legal protection are often even greater, due, for example, to displacement status; lack of legal status or documentation; overstretched and under resourced legal systems; lack of interpreters for displaced populations; lack of accessible legal advice; and poor legal infrastructure.²⁸ Addressing these specific challenges must be a

²³ UN Women, UNFPA, WHO, UNDP and UNODC (2015). Essential Services Package for Women and Girls Subject to Violence: Core Elements and Quality Guidelines, p.17. <https://www.unfpa.org/essential-services-package-women-and-girls-subject-violence>

²⁴ European Union and Council of Europe (2017) Training Manual for Judges and Prosecutors on Ensuring Women's Access to Justice, https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/TrainingManualAccessJustice_EN.pdf

²⁵ GBV AoR (2019) The Inter-Agency Minimum Standards for Gender-Based Violence in Emergencies Programming, Standard 10: Justice and legal aid, key actions p.77, https://gbvaor.net/sites/default/files/2019-11/19-200%20Minimum%20Standards%20Report%20ENGLISH-Nov%201.FINAL_.pdf

²⁶ Domestic Abuse Commissioner (2021) ,Understanding Court Support for Victims of Domestic Abuse; <https://domesticabusecommissioner.uk/wp-content/uploads/2021/06/Court-Support-Mapping-Report-DAC-Office-and-SafeLives.pdf>

²⁷ Thomas, C. et al. (2011). Working with the Justice Sector to End Violence against Women and Girls. Justice Sector Module, p.78, https://www.ohchr.org/sites/default/files/Documents/Issues/Women/SR/Shelters/UN_Women_by_Cheryl_Team_working_with_justice_sector.pdf

²⁸ UN Women, UNDP, the United Nations Office on Drugs and Crime (UNODC), and the Office of the United Nations High Commissioner for Human Rights (OHCHR) (2018). A Practitioner's Toolkit on Women's Access to Justice, https://www.unodc.org/pdf/criminal_justice/WA2J_Consolidated.pdf

priority for States and legal actors in emergencies.

Box 5. Supporting access to survivor-centered judicial processes in Uganda

Uganda's justice system has established specialized GBV courts that are dedicated to handling GBV cases. These courts are designed to provide a survivor-centered approach to GBV cases. **They are staffed by judges, prosecutors, and other judicial officers who have received specialized training on GBV.** The courts also provide support services to survivors, including legal aid, counseling, and medical assistance. Before the specialized courts, GBV survivors were facing significant difficulties in dealing with judicial personnel who frequently did not have the necessary gender-sensitivity or comprehensive understanding of the various laws that apply to GBV cases; may not have been sensitive to women's human rights; and were overburdened with other cases, resulting in delays in the judicial process and increased costs to the survivor. Specialized courts enabled the overall goal of facilitating a coordinated response within a multisectoral model. This ultimately promoted offender accountability, survivor safety, and case processing consistency, while delivering justice within a speedy time frame.

Specialized courts exist in a number of other countries, including Brazil, Spain, Uruguay, Venezuela, the United Kingdom, and the United States.

Source: UNFPA (2018) Special Courts in Uganda: Issue Brief 8 September, 2018 Issue Brief 0 Enabling access to justice for survivors of gender-based violence;

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From Knowledge to Action in Improving Survivor-Centered Justice Systems

Centering survivors of GBV in judicial processes is essential to improving survivors' access to justice and holding perpetrators to account. By implementing a survivor-centered approach, judicial professionals can increase survivor participation, agency, and self-determination, improve evidence gathering, and promote justice. By prioritizing survivor safety and agency, judicial personnel can promote a functioning and efficient legal system that serves the goals of justice.

To do so, most judicial systems will require reforms that are focused on ensuring laws and policies embody the survivor-centered approach and that judicial actors adopt the GBV guiding principles in their work. Some key recommendations for building survivor-centered justice systems include:

- Undertaking an analysis of the justice system to inform needed reforms, including amending laws that do not adequately address the root causes of GBV and addressing other barriers to survivors' access to justice.
- Developing systems, including standard operating procedures and referral mechanisms, that support a survivor-centered approach. Legal aid, women's organizations, and survivors' networks must be central to the development and implementation of these systems.
- Ensuring training to judicial personnel on appropriate handling of GBV and other cases affecting marginalized groups, using the survivor-centered approach, so that judges, lawyers, lawmakers, justice ministries and other judicial professionals involved understand and promote the principles of safety, confidentiality, respect, and non-discrimination.
- Undertaking regular monitoring to assess the extent to which justice systems are effectively prosecuting crimes using a survivor-centered approach.

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The GBV AoR Helpdesk

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

The GBV AoR Helpdesk

You can contact the GBV AoR Helpdesk by emailing us at: enquiries@gbviehelpdesk.org.uk

The Helpdesk is available 09.00 to 17.30 GMT Monday to Friday.

Our services are free and confidential.