

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

Gender-based violence (GBV) against women is a human rights violation and is both a cause and consequence of gender inequality.

GBV is globally prevalent, takes multiple forms, and affects women throughout their life cycle, irrespective of income levels or social status. In turn, gender inequality, as well as intersecting forms of discrimination—based on age, sexual orientation, gender identity, health, ethnicity, migrant, refugee or IDP status—have a negative impact on women's ability to report violence and access justice.

Women and girls' vulnerability to violence is exacerbated in complex contexts, such as conflict, organized crime, health pandemics and climate emergencies, 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. **In situations of crisis, women are more likely to experience violence and less likely to receive justice.**

IDLO, in partnership with the Global Women's Institute 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.¹ This summary draws on research findings which will be published as a full report later in 2022. Country case studies in Afghanistan,² Honduras, Papua New Guinea, the Philippines, South Sudan, and Tunisia were selected to provide different perspectives of complexity in accessing justice and an analysis of diverse justice mechanisms dealing with GBV in **situations of conflict, organized crime, climate disasters, and health pandemics, often intersecting with contexts of legal pluralism and political transition.** **Research findings** show that, in order to be effective, measures and programmes aimed at ensuring access to justice for GBV survivors, need to be responsive to women's specific needs and vulnerabilities, as well as relevant to contextual challenges.

Specific forms of GBV include:

- Intimate partner violence (IPV), including physical, sexual or psychological harm
- Non-partner sexual violence, including rape
- Femicide
- 'Honour' killings
- Conflict-related sexual violence
- Child sexual abuse
- Child marriage
- Sorcery accusation related violence
- Organized crime related violence
- Trafficking in persons
- Digital forms of violence against women
- Gender-based political violence

¹ The term "complex situations" is used to describe complicated contemporary contexts in which the humanitarian-development-peace nexus (or "triple nexus") is relevant.

² All data on Afghanistan was collected prior to 15 August 2021 and the Taliban takeover of the country.

JUSTICE MECHANISMS ADDRESSING GBV ACROSS COMPLEX SITUATIONS: CASE STUDIES



1 Afghanistan

Data collected before August 2021 showed that **women in Afghanistan experienced various forms of violence, the majority of which occurred in domestic settings and was connected to traditional practices** such as forced and child marriages, honour killings, and customary giving away of girls as a method of dispute settlement (*baad*). Insecurity and protracted conflict had seriously reduced the capacity of the justice sector to resolve legal disputes and deliver justice outcomes, resulting in the majority of **the population seeking justice through informal and customary mechanisms**.

Despite significant improvements in women's participation in the political, economic, cultural, and social life of the country over two decades, **multiple challenges remained to be addressed, including security concerns, inadequate implementation of laws, and limited funding and capacity across governmental institutions to tackle GBV**. The state of uncertainty in the country after 15 August 2021 has exposed progress towards gender equality and reducing GBV as particularly fragile.

2 Honduras

Honduras is a complex and unstable context, marked by organized crime, corruption, and some of the highest levels of violence globally. This has resulted in an erosion of the rule of law, high rates of forced displacement, and increased vulnerability of women and girls. **Honduras has the highest femicide rate in the world.** In 2019, a majority of reported femicides were linked to organized crime.

Despite promising innovation in the legal framing of GBV linked to organized crime, important barriers to access to justice remain related to inadequate penalties, widespread impunity, limited transparency and public participation in the legal reform process, insufficient state funding to civil society actors defending women's rights, and lack of trust in the formal justice system.



3 Papua New Guinea

Papua New Guinea is one of the most culturally, geographically, and linguistically diverse countries in the world. Women are largely absent from political and customary decision-making, and **levels of GBV are among the highest globally**, particularly with regards to sorcery accusation-related violence and IPV. GBV is fuelled by **social norms around communal rather than individual accountability alongside a culture**

of retribution between different tribal groups, resulting in discriminatory and harmful practices, such as bride price and polygamy.

Emerging evidence shows that justice and support services for women are increasing in Papua New Guinea, but significant barriers to accessing justice for survivors persist. A key challenge is the perception of GBV as a family matter to be resolved within the accepted customary system.



4 Philippines

The Philippines is an archipelago on the frontlines of global climate change. **On average, the country is struck by 20 typhoons annually, and it is prone to earthquakes and volcanic eruptions.** Typically high rates of GBV against women, particularly IPV, sexual exploitation, rape, physical injuries, and trafficking in persons, tend to increase in the wake of disasters, as in these situations sex becomes a means of exchange for food, water

and other goods. Gaps in referral systems to police, courts and relevant services hinder access to justice for GBV survivors in the country.

In addressing issues around GBV in the wake of disasters—likely to worsen due to the effects of climate change—government action plans have integrated considerations around human rights, gender mainstreaming, and women's participation. But as **disasters and the adverse effects of climate change are not gender-neutral**, there is need for furthering mainstreaming of a gendered and intersectional approach in disaster risk reduction and management policy and programming.



5 South Sudan

Since gaining independence in 2011, South Sudan has been marked by ongoing conflicts organized around political and ethnic divisions and a deteriorating economy. Rates of GBV against women, of which IPV is the most common form, are very high. **Conflict-related sexual violence by armed actors has increased, with women and girls' vulnerability compounded by intercommunal conflicts over livestock**, which are often resolved

through bride prices or violent revenge attacks. Other harmful, patriarchal practices like child and forced marriage, wife inheritance and polygamy, aggravate discriminatory conditions for women and girls.

Justice for GBV survivors is most frequently accessed at the local level through the customary justice system. This system is dominated by male chiefs and tends to focus on restoring and maintaining peace within a community, rather than ensuring accountability of perpetrators or protecting victims. The weakening of formal justice institutions and the rule of law, the lack of a dedicated law on GBV, and a culture of impunity, have made it less likely that perpetrators are held accountable through formal justice, thus discouraging survivors to report.



6 Tunisia

Tunisia underwent a democratic transition following the 2011 Jasmine Revolution and adoption of a **new Constitution in 2014 which enshrines equality between men and women and commits to taking the necessary measures to eradicate violence against women.** In 2018, Tunisia promulgated a special law on violence against women, which was widely viewed as an essential step in advancing justice for survivors, as part of a comprehensive response to GBV.

Despite progress towards respect for fundamental rights and freedoms, the country still experiences high rates of GBV, particularly domestic violence and abuse, and sexual harassment in public spaces. **Persistent patriarchal attitudes and practices limit women's participation in public life and decision-making, and constrain their access to socio-economic rights** such as education, property, and equal work opportunities. Access to justice for GBV survivors is further challenged by women's lack of awareness of their own rights, entrenched gender bias of many justice actors, and the justice sector's basic infrastructure and lengthy processes.

JUSTICE GAPS AND CHALLENGES FOR GBV SURVIVORS IN COMPLEX SITUATIONS

Legal frameworks

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



A survivor-centred approach is key to fulfilling the promise of justice in response to GBV, in all circumstances, including complex situations.

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, creating a gap in linking state services, humanitarian actors, and local organizations, and in delineating respective responsibilities in handling GBV cases and referral procedures.

Institutional challenges

The integrity of 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, and empower survivors to seek support and access justice.

APPROACHES AND PRACTICES TO INCREASE ACCESS TO JUSTICE FOR GBV SURVIVORS IN COMPLEX SITUATIONS

Justice systems are often ill-prepared to perform in situations of conflict, pandemics, or climate emergencies. The IDLO and GWI research report highlights some promising pathways to justice for GBV 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

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

KEY RECOMMENDATIONS FOR PROMOTING SURVIVOR-CENTRED JUSTICE FOR GBV IN COMPLEX SITUATIONS:



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.

The International Development Law Organization (IDLO) is the only intergovernmental organization exclusively devoted to promoting the rule of law.

IDLO works to enable governments and empower people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity. Its programs, research and policy advocacy cover the spectrum of rule of law from peace and institution building to social development and economic recovery in countries emerging from conflict and striving towards democracy.

The Global Women's Institute (GWI) is a globally-recognized leader in the field of gender-based violence.

GWl bridges research, education, and action to advance gender equality and reduce violence and discrimination against women and girls. By strengthening the global knowledge base on gender issues, GWl makes a difference by informing programmes and policies that address a variety of issues affecting gender equality, women's empowerment, and gender-based violence in conflict and humanitarian settings. GWl finds interventions that work, explains why they matter, and takes action to bring about change.



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