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TOOLKIT FOR ADDRESSING GENDER-BASED VIOLENCE THROUGH RULE OF LAW PROJECTS

September 2014

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Examining the Intersection between Trafficking in Persons and Domestic Violence June 2007, Doc ID: PN-ADL-005

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ACRONYMS AND ABBREVIATIONS

ADR	Alternative dispute resolution
ADS	Automated Directives System
AIDS	Acquired immune deficiency syndrome
CDCS	Country Development Cooperation Strategy
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CLE	Continuing legal education
CoE	Council of Europe
DPO	Disabled people's organizations
DRG	Democracy, human rights and governance
DV	Domestic violence
E&E	Europe and Eurasia
FGM/C	Female genital mutilation/cutting
GBV	Gender-based violence
HIV	Human immunodeficiency virus
INL	Bureau of International Narcotics and Law Enforcement Affairs
IPV	Intimate partner violence
LAC	Latin American and Caribbean
LGBT	Lesbian, gay, bisexual, and transgender
LGBTI	Lesbian, gay, bisexual, transgender, and intersex
M&E	Monitoring and evaluation
MENA	Middle East and North Africa
MDG	Millennium Development Goal
NGO	Nongovernmental organization
OAS	Organization of American States
OSCE	Organization for Security and Co-operation in Europe
OU	Operating unit
PWD	People with disabilities
ROL	Rule of Law
SGBV	Sexual and gender-based violence
TIP	Trafficking in persons
UN	United Nations
UNDP	UN Development Program
UNFPA	UN Population Fund
UNODC	UN Office on Drugs and Crime
UN Women	UN Entity for Gender Equality and the Empowerment of Women
USAID	United States Agency for International Development
USG	United States Government
VAW	Violence against women
VAWG	Violence against women and girls
WHO	World Health Organization
WPS	Women, peace and security

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EXECUTIVE SUMMARY

Unless women, girls, men, and boys fully enjoy their human rights and are free from violence, progress toward development will fall short.¹

Gender-based violence (GBV) remains one of the most serious threats to gender equality, as well as individual and societal development. When GBV is permitted to continue, or even to escalate, it not only increases insecurity, it also weakens democratic processes and undermines investments made by the U.S. Agency for International Development (USAID).

USAID has a long history of funding programming aimed at preventing and responding to GBV in such sectors as global health, economic growth, and education. The Rule of Law (ROL) sector is also a strategic entry point for GBV programming, as only the justice system is implicated in the three priority areas of **prevention** (preventing violence from occurring and escalating), **protection** of victims' rights and security, and **prosecution** of perpetrators of violence.

USAID's commitment to addressing GBV is evidenced in its support for programming, as well as the adoption of a comprehensive implementation plan for The United States Strategy to Prevent and Respond to Gender-Based Violence Globally (the GBV Strategy), a U.S. Government (USG)-wide strategy. The USAID Policy on Gender Equality and Female Empowerment and ADS Chapter 205 both require addressing GBV as part of integrating gender equality and female empowerment in the Agency programming cycle. Through these policies and procedures, USAID aims to reduce gender disparities, to reduce GBV and to mitigate its harmful effects, and to increase the capacity of women and girls to realize their rights.

This Toolkit is a resource to assist USAID staff in designing and expanding GBV prevention and response efforts and integrating them into Rule of Law (ROL) programming.² By placing GBV in a ROL framework for action, the Toolkit provides background information on the issue of GBV from a legal and justice perspective and suggests effective entry points within ROL projects where specific activities on GBV are most needed. Because monitoring and evaluation (M&E) is a key part of the program cycle, the Toolkit discusses appropriate rigorous measurement of GBV interventions, with the expectation that in addition to ensuring effective project implementation, well-developed M&E can contribute to a larger evidence base about what works in preventing and responding to GBV in the legal and justice contexts. Seven USAID projects are the subject of case studies that illustrate varied approaches to integrating GBV into ROL projects and implications for future programming.

This Toolkit is global in geographic scope, but it focuses on forms of GBV that are considered most acute in the countries in which USAID works: **domestic violence**, **sexual violence**, and **harmful traditional practices**.

GENDER-BASED VIOLENCE IN THE RULE OF LAW CONTEXT

ROL programs play a necessary role in preventing and responding to GBV because there is international consensus that GBV is a fundamental violation of human rights. Internationally-recognized human rights principles are the platform on which GBV activities in ROL projects rest. In every region where USAID

1. U.S. Department of State and USAID, *United States Strategy to Prevent and Respond to Gender-Based Violence Globally* (Washington, DC: A/GIS/GPS, 2012), 33.

2. USG Agencies, especially the U.S. Department of State, ROL and GBV project implementers, and international development organizations that work on ROL projects will also find this material useful.

works these international standards have been reinforced, and in some cases expanded, through regional human rights mechanisms. States are obligated to exercise due diligence to ensure that all human rights violations are treated as illegal acts, that they are investigated, and if meritorious, prosecuted, that perpetrators of violence are punished and victims are compensated and protected from further harm. States must develop means to prevent and respond to GBV that are effective in practice.

Informal justice systems pose a particular challenge for implementers addressing GBV through ROL programming. In many countries informal, traditional or religious justice mechanisms are more accessible than the formal justice system and are often perceived as more responsive to the justice needs of the population. In countries that have experienced prolonged conflict and instability, non-state justice institutions may be the only means of resolving disputes for many people. Furthermore, such institutions can sometimes be more effective in addressing some harmful practices, such as early marriage and female genital mutilation/cutting (FGM/C), than the formal structure that focuses on criminal sanctions. However, advocates for women and GBV survivors tend to approach working with the informal justice sector cautiously because its institutions generally are not accountable to the state, often reinforce patriarchal and discriminatory values, and can perpetuate harmful practices. ROL project designers must carefully assess how best to engage with the informal justice system to ensure that victims receive justice and perpetrators are punished.

Guiding Principles and Strategies

ROL activities for addressing GBV can be approached as strategies for increasing victims' access to justice, for making the justice system as a whole more gender sensitive, or for elaborating roles for justice sector actors within a broader coordinated response. The guiding principles elaborated in this Toolkit form a framework that can help to conceptualize how specific entry points, and activities, interact to increase prevention of and response to GBV.

The starting point for ROL activity design that addresses GBV is discerning whether victims have access to fair and effective remedies. This process requires a clear understanding of the barriers that prevent victims from accessing justice along the "justice chain." Such barriers can be the result of incomplete legislation, failures to implement the law, or inadequate protection for victims who report violence. Only when the justice chain has been mapped for a particular form of GBV or specific justice system (formal or informal), can interventions be developed to improve access to justice while simultaneously ensuring the safety of GBV survivors.

Gender-sensitive legal reform is the means of addressing the barriers that victims of GBV face when accessing justice. Because breaks may occur along the justice chain for varied reasons, legal reform can include strengthening laws, improving policies and procedures required to implement laws, and addressing the societal norms that treat GBV as a shameful issue. Often legal reform projects will include activities in each of these categories simultaneously.

Increasing women's representation in law enforcement and justice institutions is an important approach to making the entire system more accessible to female victims of GBV. Because the majority of those who have experienced GBV are women and girls, other women can be highly effective advocates, and they have an important role to play in transforming how institutions such as the police, the prosecutor's office, the judiciary, and legal aid organizations respond to GBV victims.

Engaging men in projects to prevent and respond to GBV is considered a good practice. Within ROL projects, men can serve as role models, change agents, advocates, and partners in program development, implementation, and evaluation. Engagement with men can include sensitizing and training

male legal and justice professionals. But it should also include encouraging and supporting men in their professional capacities to play a role in creating gender-sensitive justice systems. Men's experience with GBV can be varied; some perpetrate violence, while others may have experienced GBV. ROL programming on GBV should recognize this diversity of experiences and explore ways to give men and boys opportunities to discuss the causes of GBV, its consequences, and the discriminatory attitudes that perpetuate it. Likewise, GBV interventions should also consider the diversity of GBV survivors and include approaches that respond to the needs of specific populations, including people with disabilities (PWD) and lesbian, gay, bisexual, and transgender (LGBT) persons.

Given the wide range of stakeholders and their different perspectives and needs, improving the justice system's response to GBV requires an approach that coordinates a variety of actors and integrates diverse interests. Interinstitutional coordination within the justice system is crucial to ensuring GBV survivors can assert their right to redress, and so diverse GBV activities in ROL projects must be cohesive. ROL projects can also be part of a more holistic and coordinated response to GBV. Legal professionals are well placed to ensure that coordination mechanisms become institutionalized, for example in law or national action plans, and to provide capacity building for the relevant stakeholders regarding their legal responsibilities in GBV cases. Therefore, ROL projects should coordinate activities across the various parts of the justice system.

Entry Points for Project Design

This Toolkit lays out 11 entry points for integrating work to prevent and respond to GBV into ROL projects. Implementation efforts to address GBV may take advantage of multiple entry points.

A lack of comprehensive data about of GBV is characteristic of most developing countries and is a problem that impedes the design of targeted activities. **Identification of gaps in the justice chain** can, therefore, be a starting point for ROL projects. Research on GBV can be integrated into ROL assessments, and capacity building in the areas of data collection and evidence-based policy formulation can be provided to specific stakeholders.

Legislative reform is critical to establishing the illegality of certain forms of GBV and the required response. Law reform projects can include drafting new laws on GBV, amending existing national legislation to bring it into compliance with international principles, and adopting supporting laws, such as guarantees of free legal aid and victim and witness protection.

Effective implementation of the law is dependent on the existence of clear policies and procedures. **Procedural reform** and **capacity building for legal professionals** are separate activities that are often coordinated during implementation. Articulating a legal and policy framework that expresses “zero tolerance” for GBV is considered a good practice. Procedural reform can include the development of internal policies and protocols that govern how law enforcement and justice agencies respond to GBV, or the creation of new institutions (such as domestic violence police units, fast-track courts for sexual violence cases, or “one stop” justice centers) that improve the implementation of the law. Capacity-building projects can entail sensitization of key stakeholders in ROL projects, but most often are designed to introduce new policies and procedures. Stand-alone **legal tools** (such as judicial benchbooks or case law compilations) can be introduced through training programs and provide guidance that legal professionals can use in their daily work. A critical factor in the effectiveness of projects that aim to introduce new procedures, policies, and training programs is the involvement of senior leadership in the relevant institutions. Not only will the engagement of high-level officials ensure that the policies and materials that are developed will be responsive to the operating conditions, but their leadership will help foster new behaviors among subordinates.

In addition to reforming the justice system response to GBV, legal assistance is critical for victims trying to access justice. Around the world, many victims lack knowledge of the available legal remedies, are unable to travel to district centers to apply to law enforcement bodies or cannot afford to hire an attorney. **Legal assistance** may be provided by attorneys or paralegals through local legal service centers or ministry of justice legal aid programs. **Legal clinics**, based in law schools, can also play a role in increasing free services for GBV victims. Legal advocates—whether they are attorneys, paralegals, or law students—regularly assist victims in navigating the legal process and reduce incidents of revictimization.

Legal education offers an opportunity to shape how the legal profession as a whole understands GBV. Continuing legal education for judges, prosecutors, defense counsels, lawyers, court employees, or paralegals on GBV can be offered outside of a training program and institutionalized as a part of professional legal development. Similarly, the topic of GBV should be included in law school curricula in such core courses as constitutional law, criminal law, family law, poverty law, and human rights.

Legal aid attorneys and paralegals assist in bringing the law to the community level, while **legal literacy** and **awareness-raising projects** take a broader approach to educating the general public. Legal literacy projects can improve women's and girls' knowledge of their rights, the legal protections for victims of GBV, and how to access the justice system. General awareness campaigns can be used to increase societal understanding of the legal prohibitions against GBV and to raise the consciousness of witnesses and encourage them to report violence. Such campaigns are key to ending the culture of silence that surrounds most forms of GBV. ROL projects offer the unique entry point of bringing legal expertise and law enforcement information to anti-GBV messages to complement work done in other sectors.

Endemic corruption in the justice system can prevent GBV victims from obtaining redress. ROL projects can **address corruption** through strengthening the laws on official misconduct and ensuring that the justice system is regularly monitored. Projects can be designed to build the capacity of the justice system to police itself and to investigate and respond to misconduct in GBV cases (for example, if the police release the perpetrator after receiving payment or judges permit improper evidence in GBV cases). **Watchdog and monitoring activities** conducted by independent organizations are also instrumental in shedding light on where bias in the justice system may prevent victims from obtaining redress.

When there is sufficient evidence of systemic failures of the justice system, **strategic litigation** may be an appropriate means to put pressure on national governments and push for further measures to prevent and respond to GBV. ROL activities could include capacity building for legal organizations to take cases to regional human rights courts to argue that the state has failed to meet the due diligence standard. Domestic legal remedies, such as class action lawsuits, may also be a means of bringing attention to state misconduct or inaction.

ROL programming offers a unique area of expertise for USAID to act upon its Agency-wide commitment to preventing and responding to GBV. Justice sector actors are important figures of authority and they send powerful messages when they enact and enforce laws, investigate incidents of GBV, apply the law without discrimination, and enforce sentences for perpetrators of violence. Strengthening the justice chain for victims of GBV will ultimately lead to improvements to the justice sector that will benefit women, men, girls, and boys.

I. INTRODUCTION

The United States Agency for International Development (USAID) has long supported the prevention of and response to gender-based violence (GBV) across its portfolio, in every region where it works, including in humanitarian emergency and post-conflict settings. In the Rule of Law (ROL) sector specifically, USAID has funded large stand-alone and multi-country programs that address GBV, such as the Women's Legal Rights Initiative (implemented in Albania, Benin, Guatemala, Lesotho, Madagascar, Mozambique, Namibia, Rwanda, South Africa, and Swaziland; 2002–2007) and the Women's Justice and Empowerment Initiative (implemented in Benin, Kenya, South Africa, and Zambia; 2008–2011). Such projects contributed to important legal reforms. USAID also provides small grants to nongovernment organizations (NGOs) for greatly needed projects at the grassroots level, which include radio campaigns, telephone hotlines, and advocacy for GBV survivors.

ROL projects provide a natural entry point for GBV programming because only the justice system is positioned to address all three USG priorities of **prevention** (preventing violence from occurring and escalating), **protection** (protecting victims' rights and security), and **prosecution** (prosecuting perpetrators of violence). One of the strengths of ROL activities is that they can dovetail with efforts undertaken in other sectors. For example, a civil society strengthening project may include a component to raise awareness of gender issues, in which legal advocates could play a role in educating women about their right to be free from GBV. Likewise, ROL experts can contribute to projects that aim to improve the capacity of healthcare workers to understand and follow legally mandated reporting requirements on GBV. Practice has also shown that projects to address GBV can serve as entry points for encouraging broader reforms of the criminal justice system.

One factor that makes GBV such an insidious problem is that it cuts across ethnicity, race, class, religion, education, socioeconomic levels, and international borders. GBV occurs everywhere, including high-income countries that are considered to have effective justice systems and long histories of activism around GBV. Even in these countries, reform efforts to improve the legal and justice system response to GBV are ongoing. Indeed, with the timeline for achieving the UN Millennium Development Goals (MDGs) approaching, the problem of GBV has been at the fore of discussions about a new framework and priorities for the post-2015 development agenda. An emerging area of consensus is the need to invest further in strengthening gender justice initiatives and combating GBV in order to address the unfinished business of gender equality and women's empowerment.

A. PURPOSE OF THE TOOLKIT

This Toolkit supports the objectives of the United States Strategy to Prevent and Respond to Gender-Based Violence Globally (the GBV Strategy) to integrate GBV prevention and response efforts into U.S. Government (USG) work and to expand such programming further. This resource is also an example of USAID's commitment to integrating activities relevant to GBV into its sector work. The Equal Rights, Equal Justice Toolkit was developed under a USAID initiative to produce comprehensive resources to help staff address GBV in projects across programming sectors or in specific regions of the world more effectively. It is intended to assist in this process by identifying entry points for data collection, project design, and modification of existing activities (or scale up, as appropriate) in ROL projects. A number of complementary materials are available or are currently being drafted that cover GBV in such sectors as global health, especially HIV and AIDS-related projects, economic growth, and education, particularly safe schools projects.

The Toolkit focuses on the Democracy, Human Rights and Governance (DRG) sector, and more specifically on projects that aim to improve ROL. It provides background information on the issue of GBV from a legal and justice perspective. It then outlines an approach for understanding how GBV programming fits within a ROL framework, by addressing GBV as a fundamental human rights violation and ensuring that anyone who has experienced GBV has full access to justice. Concrete suggestions are provided about key entry points within ROL projects where specific activities on GBV are most needed and considered particularly effective. This Toolkit also outlines an approach for monitoring and evaluation (M&E) of GBV-oriented activities within ROL projects and provides suggested indicators (Annex C). Seven case studies on USAID projects (in Afghanistan, Democratic Republic of the Congo, El Salvador, Georgia, Kenya, Sri Lanka and Timor-Leste) that take different approaches to address GBV through ROL activities are included as Annex D.

By illustrating how GBV interventions can be included within a variety of USAID's ROL projects, the Toolkit aims to inspire innovation and creativity in project design. Multi-year, concerted efforts to address GBV from multiple angles, such as enhancing legal, health, and social service responses, are certainly needed. However, there are many ways that ROL projects can address GBV and the specific legal remedies it requires without designing a dedicated GBV program. In the current budget-constrained environment, where new funding may not be available, it is increasingly important to identify and grasp opportunities to mainstream GBV activities into existing and larger projects. Improving a justice system's response to GBV, in particular its ability to provide redress to victims and end impunity for perpetrators, means that the system will ultimately be strengthened to benefit all citizens.

B. SCOPE OF THE TOOLKIT

The Toolkit is global in scope, but attention is given to forms of GBV that are considered most acute in the countries in which USAID works: **domestic violence**, **sexual violence**, and **harmful traditional practices**. Much of the guidance may also be relevant to other forms of GBV, as ROL projects entail sensitizing and improving the capacity of the justice system as a whole to provide redress for acts of GBV rather than focusing on the elements of each type of violence.

The Toolkit is aimed primarily at USAID Mission and Washington-based personnel who are responsible for designing and managing ROL projects and who want to integrate efforts to address or reduce GBV into their projects. The guidance is directed toward USAID program officers, project design teams, contract and agreement officer representatives, and gender advisors. In addition, other USG Agencies, project implementers, and international development organizations should find the Toolkit useful.

Box 1: Terms Used in the Toolkit



Women are disproportionately affected by GBV, and thus the term “violence against women” is often used interchangeably with GBV. The terms are not, however, synonymous. **Violence against women (VAW)** refers to a specific type of GBV. It is “violence that is directed against a woman because she is a woman or that affects women disproportionately.”³ This Toolkit refers to many resources that cover the intersections of VAW and the ROL because they include useful guidance that can be applied to GBV interventions more broadly. Use of the term “VAW” or discussion of women’s access to justice does not suggest that men and boys cannot also be victims of GBV.

3. UN Convention on the Elimination of Discrimination Against Women, General Recommendation 19, para. 6. (1992).

When describing a person who has experienced GBV, the term **“survivor”** is preferred over the term **“victim,”** since the former conveys empowerment and the latter term is negatively associated with powerlessness. In the legal context, however, the term “victim” is an appropriate way to distinguish individuals involved in legal proceedings and to clarify the party whose rights have been violated and who is entitled to a legal remedy. Furthermore, in many cases of GBV, such as “honor” killings or femicide, there is no survivor. The fact that a victim is no longer living does not relieve the state’s responsibility to prosecute the perpetrator(s) vigorously. This Toolkit, therefore, makes use of the term “victim” of GBV without making any judgments about the individual who has experienced violence.

II. OVERVIEW OF GENDER-BASED VIOLENCE AND THE LAW

GBV is a multifaceted problem that by its nature involves the justice system because acts of violence are violations of fundamental human rights and are usually criminalized in domestic law.⁴ The GBV Strategy defines GBV as: *violence that is directed at an individual based on his or her biological sex, gender identity, or perceived adherence to socially defined norms of masculinity and femininity.*⁵

GBV is widely understood to consist of physical and/or sexual violence, but it can also include psychological abuse, threats, coercion, arbitrary deprivation of liberty, and economic deprivation. The links between GBV, gender-based inequalities and gender norms distinguishes GBV from other forms of violence, such as gang-related violence, youth violence, or child maltreatment.

Box 2: Definitions of GBV



The descriptions of GBV provided in this Toolkit are based on common understandings, but they are not legal definitions. Legal definitions of GBV and its different forms vary significantly depending on the source of the law and jurisdiction, whether international conventions or tribunals, regional conventions, national legislation, or customary or religious law.

For example, compare the legal definitions of rape and sexual violence developed by the International Criminal Tribunals for the former Republic of Yugoslavia and Rwanda to the elements of the crime described in domestic law. The former are gender neutral and include forms of coercion even when physical harm or penetration have not occurred. However, some national laws limit the definition of rape to acts of penetration committed by males against females (e.g., vaginal penetration) or recognize a “marital exception” as a bar to rape prosecutions.

A. FORMS OF GENDER-BASED VIOLENCE

When designing projects or activities, it may be necessary to take a broad-based approach to improving how the justice system addresses and responds to GBV, including a focus on sensitization and capacity

4. The treatment of GBV under national law varies by country and there are crucial gaps in the legal definitions of GBV, as noted in this Toolkit. However, at a fundamental level all jurisdictions criminalize such acts as causing physical injury, assault, rape, threats, or deprivations of liberty.

5. U.S. Department of State and USAID, *United States Strategy to Prevent and Respond to Gender-Based Violence Globally*, 6.

building of the judiciary. Such activities should have the effect of making the system accessible and responsive to victims of any form of GBV. On the other hand, specific forms of GBV can warrant specific legal remedies or approaches, for example improving forensic documentation in rape cases.

The forms GBV can take are generally categorized according to where and by whom the violence is perpetrated—whether in the private sphere (in the family), the public sphere (in the community), or perpetrated or condoned by the state (which can include violence committed by public officials or custodial violence—violence perpetrated in state-owned institutions such as prisons, jails, hospitals or facilities for the elderly or persons with disabilities).⁶ This Toolkit provides general guidance on key entry points for addressing GBV, specifying forms of GBV where appropriate.

The main forms of GBV addressed in this manual are:⁷

(1) Domestic violence, sometimes referred to as intimate partner violence (IPV), can include physical, sexual, and/or psychological abuse.⁸ Rape occurring during marriage may be considered a form of domestic violence (DV) or it may be classified separately. DV is the most common form of violence experienced by women around the world, and it is usually perpetrated by a current or former intimate partner. Abused persons and perpetrators can, however, be of any sex, and domestic violence exists in same-sex partnerships.

(2) Sexual violence is any sexual act, attempt to obtain a sexual act, or unwanted sexual comments or advances, perpetrated by any person against another regardless of their relationship to the victim. Sexual violence covers a range of acts, including those committed in the private sphere (marital/spousal rape, date rape/courtship violence, incest, and sexual abuse), in the community (sexual assault and sexual harassment), or which are linked to other crimes (such as trafficking in persons (TIP) for the purpose of sexual exploitation or forced prostitution), or used as a weapon of war during conflict.

(3) Harmful (traditional) practices⁹ include a number of distinct forms of violence that are most commonly, but not exclusively, directed toward girls and young women. Some such practices are rationalized by morality or “family honor,” (such as honor killings) while others “find no cultural or religious justifications” (such as acid attacks on girls).¹⁰ Such harmful practices are deeply rooted in gender inequalities and gender-based discrimination that are themselves often reflected in cultural and religious practices and traditions. Harmful traditional practices can be perpetrated against females throughout the life cycle, and common forms are described below:¹¹

6. UN General Assembly Resolution 48/104, *Declaration on the Elimination of Violence against Women*, A/RES/48/104 (December 20, 1993).

7. See Annex A for expanded definitions of the most commonly recognized forms of GBV.

8. Many countries have laws on “family violence,” which is a broader term that can be used to describe domestic violence, child abuse, or elder abuse, all of which could occur within a family environment, but not all of which necessarily also have a gender dimension.

9. Some advocate eliminating the word “traditional” from this phrase, as it may exclude emerging harmful practices that are, nevertheless, justified by culture, tradition, or religion.

10. Special Representative of the Secretary-General on Violence Against Children (OSRSG/VAC), *Protecting Children from Harmful Practices in Plural Legal Systems* (New York: OSRSG/VAC, 2012), 7.

11. Chart developed from United Nations Office of the High Commissioner for Human Rights (OHCHR) Fact Sheet: Harmful Traditional Practices Affecting the Health of Women and Children Population Fund (accessible from <http://www.ohchr.org/Documents/Publications/FactSheet23en.pdf>); UN Division for the Advancement of Women and the UN Economic Commission for Africa, *Good Practices in Legislation on “Harmful Practices” Against Women* (report of the expert group meeting, Addis Ababa, Ethiopia, May 26–29, 2009), 7; and Krug EG et al., eds. *World Report on Violence and Health, Chapter 5 Abuse of the Elderly*, (Geneva: WHO, 2002), 125-128.

Table 1. Harmful traditional practices throughout the life cycle

Phase in Female Life Cycle	Type of Harmful Traditional Practice/Violence
Prenatal	Prenatal sex selection and abortion of female fetuses (linked to a preference for sons)
Infancy	Female infanticide
Childhood and Adolescence	Female genital mutilation/cutting (FGM/C); school-related GBV; early and forced marriage; dowry-related violence; bride kidnapping/abduction; crimes rationalized by “honor” (including acid attacks)
Adulthood	Crimes rationalized by “honor”; forced marriage (for example to a deceased husband’s brother)
Old Age	Maltreatment of widows, including sexual violence; accusations of witchcraft (which are directed primarily at elderly women)

Men and boys also can be subjected to harmful practices such as forced marriage and initiation rites (e.g., sexual abuse inflicted by gangs). Concern has been raised over an emerging (or reemerging) form of GBV in parts of Afghanistan in which adolescent boys are sexually abused and exploited by powerful men, often through kidnapping, trafficking, or coercion of their families (known as *baccha baazi*). The practice appears to have increased in recent years, but has remained largely unaddressed by the Afghan justice system or international organizations.¹²

(4) Violence in conflict and crisis situations includes various forms of GBV described above that are perpetrated during conflict (rape and forced pregnancy as a tactic of war, for example), or in post-conflict settings, humanitarian crises, and emergency situations (including incidents of domestic violence and sexual violence perpetrated in refugee camps and sexual violence by civilians, the military, or security forces) when the ROL has been weakened.

B. VULNERABILITIES TO GENDER-BASED VIOLENCE

According to World Health Organization (WHO) estimates, at least 35 percent of the world’s women have experienced some form of GBV over their lifetimes (defined as physical and/or sexual intimate partner violence or non-partner sexual violence).¹³ The prevalence of GBV against women is higher in Southeast Asia, the Eastern Mediterranean, and Africa, and official figures would most likely be higher still if data were available about a greater number of forms of GBV, especially harmful traditional practices.

(1) Women and girls are the most at risk for and most affected by GBV because it is both “a manifestation of historically unequal power relations between men and women” and “one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.”¹⁴ Women and girls are vulnerable owing to discrimination (often perpetuated by gender stereotypes), the fact that they are more likely to be economically dependent or impoverished, and because they often lack access to education, healthcare, and other key resources. The same factors also limit women’s and girls’ access to the justice system.

12. UN Security Council, *Report of the Secretary-General on Children and Armed Conflict in Afghanistan*, S/2011/55 (February 3, 2011), 10; Chris Mondloch, “An Afghan Tragedy: The Pashtun Practice of Having Sex with Young Boys,” *The Independent*, October 29, 2013, <http://www.independent.co.uk/voices/comment/an-afghan-tragedy-the-pashtun-practice-of-having-sex-with-young-boys-8911529.html>.

13. WHO, *Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence* (Geneva: WHO, 2013), 2.

14. UN General Assembly Resolution 48/104, *Declaration on the Elimination of Violence against Women*.

(2) Men and boys also experience GBV, but such violence has been less well understood and may be less recognized than some forms of VAW. For example, during conflict in the Balkans, thousands of men were subjected to sexual violence, but these acts have largely remained an “open secret” and have not been adjudicated at the international level with the same seriousness as charges of sexual violence against women.¹⁵ Recently, there has been increasing attention to the “blindness” that exists around boys’ experiences of sexual violence. In South Asia, for example, boys between the ages 6 to 12 are considered more vulnerable than girls to sexual abuse outside of the home because of social customs that allow boys more freedom (and hence less oversight), widespread denial that such sexual abuse occurs, and failure to report such crimes.¹⁶ Boys are often poorly protected by national legislation. For example, the crime of rape may be defined narrowly as a form of sexual violence perpetrated against female victims. The crime of sexual exploitation may not extend to street-based prostitution where boys are most likely to be exploited.¹⁷

Box 3: Gender-Specific Strategies for Addressing GBV



It is very important to understand that GBV against males is distinct from other forms of violence that men and boys experience, but it is also not the same as GBV experienced by females (which occurs “as a result of pervasive inequality and discrimination” and is uniquely “systemic and pandemic”).¹⁸ Violence experienced by women and girls is most often perpetrated by an intimate partner or relative.¹⁹ Exceptions are cases of human trafficking and violence during conflict and humanitarian emergencies. In contrast, violence against males (with the exception of child sexual abuse) is much more likely to be perpetrated by a stranger or acquaintance.

Experts have noted a recent tendency to ignore these distinctions and instead to address all forms of GBV, or even all forms of violence, under a “gender neutral” framework.²⁰ A better approach, and one that ensures equality of outcomes, is to develop gender-specific strategies. “The strategies employed for the prevention and response to gender-based violence experienced by men and boys necessarily differ from those directed towards helping women and girls.”²¹ Legal interventions and tools for measurement and evaluation should be adapted when the primary victims are men and boys. GBV legislation should include women, men, girls, and boys. Legal remedies should be equally accessible for male and female victims, and law enforcement and justice authorities should be sensitized to the needs and experiences of male GBV victims.

15. Susan Somach, *The Other Side of the Gender Equation: Gender Issues for Men in the Europe and Eurasia Region* (Washington, DC: USAID, 2011), 23.

16. John Frederick, *Sexual Abuse and Exploitation of Boys in South Asia: A Review of Research Findings, Legislation, Policy and Programme Response* (Florence: UNICEF Innocenti Research Centre, 2010), 6.

17. *Ibid.*, 22–23.

18. Report of the UN Special Rapporteur on Violence against Women, its Causes and Consequences (Rashida Manjoo, to the Human Rights Council, 28 May 2014, A/HRC/26/38), para. 61

<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Pages/ListReports.aspx>

19. USAID. *US Strategy to Prevent and Respond to Gender-based Violence Globally* (Washington, DC: USAID, 2012), 7.

20. Report of the UN Special Rapporteur on Violence against Women, its Causes and Consequences, para. 61.

21. Shelah S. Bloom, *Violence Against Women and Girls: A Compendium of Monitoring and Evaluation Indicators* (Chapel Hill: USAID/East Africa/Measure Evaluation, 2008), 14.

(3) Minority women and men have specific vulnerabilities to GBV because of their marginalized status in society and isolation from the justice system and legal services. In India, for example, women of the Dalit community “face multiple disadvantages and vulnerabilities” and experience higher rates of violence than other Indian women.²² Such violence is largely unreported, rarely covered in the media, and not registered by law enforcement authorities.²³ Likewise, indigenous women and girls are at a particular risk for violence, which is closely linked to the “wider contexts of discrimination and exclusion to which indigenous peoples as a whole are often exposed in social, economic, cultural and political life.”²⁴ Inequalities and exclusion experienced by such minority groups are compounded by the lack of legal recognition of their status, the intersection of national legislation with customary and/or religious laws, and security risks (such as intercommunity or intertribal conflicts). Migrants, refugees, and internally displaced persons (especially women) are especially vulnerable to GBV, owing to their isolation, language barriers and insecure legal status, all of which may make them reticent to approach the justice system for fear of prosecution and deportation. Likewise, the fact that sex work is criminalized in many countries may put male, female and transgender sex workers at an increased risk for violence. Fear of police harassment or arrest can force sex workers into unprotected and isolated locations, which compromises their ability to assess their own safety, or may mean that they do not report incidents of violence to law enforcement.²⁵

(4) People with disabilities (PWD) are vulnerable to abuse and violence but may not be included in USAID GBV programs.²⁶ In many countries, PWD are subjected to discriminatory treatment and marginalized from mainstream society. Women and girls with disabilities are “at higher risk of violence than non-disabled peers, due to misconceptions about their disability, negative attitudes, and social exclusion.”²⁷ In addition, existing legislation on violence against women and girls “often does not recognize the range of domestic or family settings in which women with disabilities may live and the variety of possible perpetrators in such contexts, including caregivers.”²⁸ A study conducted in four African countries of sexual violence against children with disabilities found that legal professionals were largely unaware of laws protecting the rights of children and PWD, and that cultural discrimination played a role in perpetuating impunity. Legal professionals suggested that children with disabilities were not a priority when resources were scarce, an attitude that was borne out by the fact that most perpetrators were not sentenced or, if convicted, did not serve their full sentence.²⁹

In the ROL context, access to justice projects that are sensitive to the needs of PWD encompass ensuring physical access to public buildings such as police stations, prosecutor’s offices, and courts; conveying legal information in an accessible format (e.g., the use of sign interpretation in legal

22. All India Dalit Mahila Adhikar Manch et al. *Violence Against Dalit Women: Input to the UN Special Rapporteur on Violence against Women* (report prepared for her visit, India, 22 April – 1 May 2013), 4 and 6.

20. *Ibid.*, 6.

24. UNICEF et al., *Breaking the Silence on Violence Against Indigenous Girls, Adolescents and Young Women* (New York: UNICEF, 2013), 3.

25. WHO, UNFPA, Joint United Nations Programme on HIV/AIDS, Global Network of Sex Work Projects, World Bank, *Implementing Comprehensive HIV/STI Programmes with Sex Workers: Practical Approaches from Collaborative Interventions* (Geneva: WHO, 2013), 24.

26. USAID, *Guide on How To Integrate Disability into Gender Assessments and Analyses* (Washington, DC: USAID, 2010), 15.

27. Women’s Refugee Commission and International Rescue Commission, “Building Capacity for Disability Inclusion Gender Based Violence Programming in Humanitarian Settings” (June 2012), available at <http://www.womensrefugeecommission.org/> and Sarah Phillips, *Women with Disabilities in the Europe and Eurasia Region* (Washington, DC: USAID, 2012).

28. UN Commission on the Status of Women, *Multisectoral Services and Responses for Women and Girls Subjected to Violence: Report of the Secretary-General, E/CN.6/2013/3* (57th Session, New York, December 18, 2012), para. 40.

29. Save the Children UK, *Out from the Shadows: Sexual Violence Against Children with Disabilities* (London: Save the Children UK, 2011), 15-17.

proceedings or written materials in Braille); protecting the rights of victims/witnesses (e.g., the appointment of legal guardian/advocates for people with intellectual or developmental disabilities); and sensitizing and educating legal professionals.

(5) Lesbian, gay, bisexual, and transgender (LGBT) individuals³⁰ are vulnerable to GBV in their communities if they are perceived to have transgressed gender norms or may experience violence from intimate partners or family members. Community-based violence can be physical or sexual, and may include murder. Victims are targeted because of their identification as LGBT—as in the case of “corrective rape” against lesbians or bisexual women (so-called because male assailants attempt to “cure” the victims of their sexual orientation or gender identity).³¹ Although information is limited, cases of violence against LGBT persons perpetrated by family members, including physical, psychological, and sexual abuse, forced marriage and rape, have been documented. Such acts of violence are generally committed when a family member is suspected or revealed to be LGBT.³² Not all jurisdictions legally recognize hate crimes, and if they do, there may not be a separate cause of action for violence on the grounds of sexual orientation or gender identity. In addition, in countries where same-sex relations are criminalized, male victims of rape or sexual violence by intimate partners (or others) are deterred from reporting because they risk interrogation and prosecution.³³ Even when legal protections do exist, law enforcement and legal professionals may not have the understanding or skills to identify such crimes or to provide the necessary support to victims. In many countries, LGBT persons face societal stigmatization, homophobia, and intolerance from their families, the general public, law enforcement, and the justice system. Such discrimination deters victims from reporting violence, as they fear exposure and revictimization. Negative attitudes toward LGBT person is also a factor behind inaction by law enforcement and legal professionals even when cases are reported.

C. LEGAL FRAMEWORK AND THE DUE DILIGENCE STANDARD

A full review of the international law and jurisprudence on GBV is beyond the scope of this Toolkit, therefore this section provides an overview of the international and regional human rights standards that apply to GBV. See Annex B for a more complete list of international and regional instruments that are relevant to GBV.

I. INTERNATIONAL LAW

At the international level, the most important legal developments that contributed to the conceptualization of GBV as a form of discrimination and a human rights abuse were: (1) the articulation of states’ responsibility to protect individuals in their jurisdictions from human rights violations, regardless of who perpetrates them; and (2) the application of this standard—to exercise due diligence—to private acts of VAW. The due diligence standard is not only a rule of customary international law but is also part of a state’s positive obligations under human rights treaty law (articulated in the United Nations Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW], for example). Under the due diligence standard, states have a duty to ensure that all

30. Note that USAID sometimes uses the acronym LGBTI (lesbian, gay, bisexual, transgender, and intersex). In the ROL context, the expanded definition is especially relevant in countries that legally recognize a third gender, such as Bangladesh, India, Nepal and Pakistan.

31. “Corrective rape” has been documented in several African countries as well as Haiti. See, e.g., Anne-Christine d’Adesky, *Beyond Shock: Charting the Landscape of Sexual Violence in Post-Quake Haiti: Progress, Challenges & Emerging Trends 2010–2012* (PotoFanm+Fi, 2012), 99.

32. Aengus Carroll, *Testing the Waters: LGBT People in the Europe & Eurasia Region* (Washington, DC: USAID, 2013), 7 and 15.

33. UN High Commissioner for Refugees, *Working with Men and Boys Survivors of Sexual and Gender-Based Violence in Forced Displacement* (Geneva, 2012), 10.

human rights violations are treated as illegal acts, that they are investigated, and that perpetrators found guilty of violence are punished and victims are indemnified. In order to satisfy the due diligence standard, states must develop a formal framework to prevent and respond to GBV that is effective in practice.³⁴ General Recommendation 19 to CEDAW challenged the public/private dichotomy that exists in international law. The public/private distinction had long prevented recognition of the kinds of abuse that women experience, such as intimate partner violence, as human rights violations. As a result, the concept of due diligence has become “a yardstick to determine whether a state has met or failed to meet its obligations in combating violence against women.”³⁵ General Recommendation 19 also established that VAW (or GBV more broadly) is itself a human rights violation that should not be subsumed under more general human rights instruments.³⁶

International jurisprudence on GBV has been refined by subsequent international instruments. The Beijing Declaration and Platform for Action (1995) reaffirmed that VAW is both itself a violation of women’s human rights and an impediment to women’s full enjoyment of their rights. The Rome Statute of the International Criminal Court (2000) established criminal liability for individuals who commit acts of VAW during armed conflict, especially rape and sexual violence. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), the UN Convention on the Rights of People with Disabilities (2006), and UN Security Council resolutions on women, peace, and security have also reiterated the need to address GBV in particular contexts. The most recent resolution (S/RES/2106 from 2013) calls for increased measures to prevent sexual violence in conflict settings and to combat impunity for these crimes. Under the Optional Protocol to CEDAW (2000), which gives the treaty-monitoring body the authority to review individual complaints, non-binding opinions have clarified how the due diligence standard applies to individual cases of GBV at the national level and the actions a state should take to address GBV effectively.

2. REGIONAL LAW

Regional human rights instruments and case law have further clarified states’ obligations to prevent and respond to GBV and, in some cases, they provide expanded legal definitions of what constitutes GBV. The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (The Convention of Belém do Pará, 1994) requires that members of the Organization of American States (OAS) use due diligence to “prevent, investigate and impose penalties for violence against women.”³⁷ The Council of Europe (CoE) Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention, 2014) likewise obligates state parties to “take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence ... that are perpetrated by non- state actors.”³⁸ The Istanbul Convention recognizes a range of acts under the definition of VAW, including physical, sexual, and psychological violence, stalking, forced marriage, FGM/C, forced sterilization, and sexual harassment. Both the CoE and the OAS recognize violence based on sexual orientation or gender identity as a

34. Report of the Special Rapporteur on Violence against Women, its Causes and Consequences (Rashida Manjoo, to the Human Rights Council, 14 May 2013, A/HRC/23/49), para. 15 [citing *Velásquez Rodríguez v. Honduras*, judgement of July 29, 1988 of the Inter-American Court of Human Rights held that the American Convention on Human Rights which established the due diligence standard]. <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx>

35. UN Commission on Human Rights. *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women; The Due Diligence Standard as a Tool for the Elimination of Violence Against Women*. Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Yakin Ertürk, E/CN.4/2006/61 (62nd Session, Geneva, January 20, 2006), para. 14. <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx>

36. Other human rights instruments include, the International Covenant on Civil and Political Rights (ICCPR) or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

37. Article 7, Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women.

38. Article 5, Convention on Preventing and Combating Violence Against Women and Domestic Violence.

specific form of discrimination that requires state action.³⁹ In the African and Asian regions, joint declarations articulate goals to prevent and protect against GBV. For example, state parties to the African Charter on Human and Peoples' Rights have committed to enact and enforce laws to prohibit all forms of VAW “including unwanted or forced sex whether the violence takes place in private or public.”⁴⁰ In other regions, decisions of regional courts, such as the Inter-American Court of Human Rights and the European Court of Human Rights, have also contributed to the growing case law on GBV as a human rights violation.

3. NATIONAL LAW AND NON-STATE JUSTICE SYSTEMS

States implement international and regional standards through national law and policy. In many countries—almost all African countries as well as many countries in Asia and Latin America—non-state justice systems operate in parallel with formal justice systems. The term non-state justice system “encompasses a wide array of traditional, customary, and religious non-state justice and informal mechanisms that provide dispute resolution and justice-related services, sometimes with ties to the state and governed by an established legal framework.”⁴¹ Non-state justice systems, which are generally structured around community-based institutions, can provide “accessible participatory, efficient, flexible, and culturally relevant justice”⁴² especially in contexts in which the formal justice system is nonexistent or very weak. However, such informal systems also present particular challenges for addressing GBV. They may not be representative of all community members, may “lack transparency, and [can] fail to uphold international human rights and equality standards, particularly with respect to women.”⁴³ Customary justice systems, such as those in South Sudan, tend to emphasize reconciliation and restoring community harmony, an approach that means they are often poorly equipped “to deal with complex cases such as GBV that result from the breakdown of traditional community and family structures.”⁴⁴

In plural justice systems, tribal, religious, and statutory courts may act alongside each other.⁴⁵ Even in the formal justice context, informal and community mechanisms may “with the acquiescence or support of the State, assume roles in mediation and dispute resolution, frequently to the detriment of women’s rights.”⁴⁶ Often the reliance on customary or religious laws is at the discretion of a judge. In the case of Pakistan, the CEDAW Committee expressed concern over the operation of non-state justice institutions (the jirga and panchayat) “despite the ruling against their legality,” and of the use of “informal dispute resolution mechanisms (Musalihah Anjuman), which discriminate against women.”⁴⁷ The existence of parallel systems of justice “may sanction acts of violence against women by deeming these to be acceptable forms of ‘traditional’ practice or by handing down severe punishments (such as honor killings) for women who allegedly transgress societal norms.”⁴⁸ Discriminatory application of the law can be observed in countries where harmful practices have been outlawed but, nevertheless, “continue to

39. See Recommendation CM/Rec(2010)5, adopted by the Council of Europe Committee of Ministers, March 31, 2010, and the Inter-American Convention Against All Forms of Discrimination and Intolerance (2013).

40. Article 4, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

41. USAID Office of Democracy, Human Rights and Governance, Rule of Law Division, *Guide to Rule of Law Country Analysis: The Rule of Law Strategic Framework* (Washington, DC, 2010), 19.

42. *Ibid.*

43. *Ibid.*, 20.

44. Haki Legal Empowerment Network, *Combating Gender-Based Violence in the Customary Courts of South Sudan* (2011), 3.

45. Plan and OSRSG/VAC, *Protecting Children from Harmful Practices in Plural Legal Systems*, 17.

46. UN Commission on Human Rights, *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women; The Due Diligence Standard as a Tool for the Elimination of Violence Against Women*, para. 65.

47. UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Fourth Periodic Report of Pakistan*, CEDAW/C/PAK/CO/4 (54th Session, Geneva, February 11–March 1, 2013), para. 15.

48. UN Commission on Human Rights, *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women; The Due Diligence Standard as a Tool for the Elimination of Violence Against Women*, para. 65.

persist due to the continuing influence of traditional norms.”⁴⁹ The practices of FGM/C, forced and early marriage, female infanticide, and acid attacks, for example, may all be sanctioned under informal justice systems.

III. PREVENTING AND RESPONDING TO GENDER-BASED VIOLENCE: A USG COMMITMENT

The U.S. Government has long supported GBV programs through its foreign assistance and development activities. By making the promotion of gender equality and empowerment of women and girls a central part of U.S. foreign policy and diplomacy, the Obama Administration has further solidified its commitment to prevent and respond to GBV. Several strategies and action plans were adopted in 2011–2012 that form a government-wide framework for developing interventions on GBV and coordinating USG efforts toward common goals.

A. POLICY RELEVANT TO GENDER-BASED VIOLENCE

The United States Strategy to Prevent and Respond to Gender-Based Violence Globally outlines four objectives that apply to all forms of GBV that emphasize improving coordination between ongoing USG efforts as well as expanding USG programming on GBV. The GBV Strategy aims to improve the way that prevention of and responses to GBV are integrated into existing programming and policies. USAID’s specific commitment to addressing GBV and its plan for the implementation of the GBV Strategy reiterates the commitment to mainstream GBV work across all Agency programs. This commitment builds upon the USAID Policy on Gender Equality and Female Empowerment, which envisions three broad outcomes: reducing gender disparities, reducing GBV and mitigating its harmful effects, and increasing the capacity of women and girls to realize their rights.

The USAID plan for implementing the GBV Strategy allocates the responsibility for addressing GBV across the Agency, and notes that success depends upon the commitment of all staff.⁵⁰ USAID has defined three strategic goals, all of which are relevant to developing ROL projects:

Goal 1: Mainstream and integrate GBV prevention and response activities into work across sectors. GBV can be addressed through human rights and ROL projects generally, and it is especially critical to do so in conflict-affected and fragile states, in which transitional justice mechanisms are important tools to address GBV and reduce impunity.

Goal 2: Sharpen program priorities. USAID Missions and Washington-based operating units should identify the most prevalent forms of GBV and gaps in services (including legal services) and assess community capacity in order to select appropriate interventions. From the stage of developing a Country Development Cooperation Strategy (CDCS) through project design, attention should be given to integrating GBV interventions across the program portfolio, which can include the DRG sector and ROL specifically. In addition, assessing and strengthening GBV programming with an eye toward scale and sustainability is as important as closing data gaps, especially in areas relevant to ROL programming.

Goal 3: Expand collaborative efforts. Greater collaboration on GBV programming is needed in the form of elevating female leaders as change agents; engaging male allies in GBV interventions; and including underserved populations in prevention and response efforts. Within ROL projects that aim to

49. UNICEF et al., *Breaking the Silence on Violence Against Indigenous Girls, Adolescents and Young Women*, 28.

50. U.S. Department of State and USAID, *United States Strategy to Prevent and Respond to Gender-Based Violence Globally*, 35.

improve access to justice, it is therefore important to keep in mind not only the ability of female and male GBV victims, including those from underserved or marginalized groups, to access the justice system, but also whether male and female legal professionals can work together and play a greater role in transforming how the legal system deals with GBV. Because the justice system should be responsive to the needs of underserved populations, representatives of these groups, including people who are not legal professionals, should also be engaged in designing effective remedies. Likewise, partnerships both within and outside the justice system are important to ensuring that a comprehensive system for addressing GBV can be maintained. Thus, it is useful to consider areas of potential collaboration between such sectors as the legal, health and education professions, as well as with civil society and even the private sector (for example, law firms that offer pro bono services for victims or businesses that adopt internal policies on reporting GBV).

USAID has also prioritized refining an Agency-wide approach to M&E that will allow for measurement of progress toward the goals of the GBV Strategy.

Other USG and USAID policies support the goals of the GBV Strategy. For example, both the United States Government Action Plan on Children in Adversity and USAID Vision for Action: Ending Child Marriage and Meeting the Needs of Married Children highlight the risks that children, and girls especially, face in terms of sexual violence, bride abduction, early marriage, partner violence, and FGM/C in conflict settings, schools, and their communities. The United States National Action Plan on Women, Peace and Security and USAID implementation plan recognize that sexual and gender-based violence (SGBV) often accompany war and conflict, and therefore USAID has articulated objectives for strengthening the protection of victims of SGBV in situations of crisis and conflict that include such action as “[combating] impunity and [supporting] women’s access to justice through programs to build the capacity of governments to investigate and prosecute GBV, including specialized courts and assistance centers.”⁵¹

Box 4: Key USG and USAID Policy Documents on GBV
Executive Order on Preventing and Responding to Violence Against Women and Girls Globally
United States Strategy to Prevent and Respond to Gender-Based Violence Globally
United States Government Action Plan on Children in Adversity: A Framework for International Assistance 2012–2017
United States National Action Plan on Women, Peace and Security
USAID Policy on Gender Equality and Female Empowerment
USAID Vision for Action: Ending Child Marriage and Meeting the Needs of Married Children
USAID Youth in Development Policy: Realizing the Demographic Opportunity

51. USAID, *USAID Implementation of the United States National Action Plan on Women, Peace and Security* (Washington, DC, 2012), 2.

USAID Implementation of the United States National Action Plan on Women, Peace and Security

USAID Counter-Trafficking in Persons Policy

USAID Vision for Action: Promoting and Supporting the Inclusion of Lesbian, Gay, Bisexual, and Transgender Individuals

B. HUMAN RIGHTS PROTECTION AS A KEY DEVELOPMENT OBJECTIVE

The USAID Strategy on Democracy, Human Rights and Governance (DRG Strategy) endorses gender equality goals. The DRG Strategy and USAID’s Policy on Gender Equality and Female Empowerment are “mutually reinforcing in their emphasis on the principles of inclusiveness and accountability.”⁵² Under the DRG Strategy, USAID developed high-level objectives on participation and inclusion (of citizens) in governance, and accountability (of government institutions). Human rights protection and promotion is also a key development objective and one that is addressed by programming in such areas as ROL. The DRG Strategy characterizes GBV as a human rights violation, albeit one that requires “societal change, in addition to legal protections,” and it draws attention to the particular problem of impunity in conflict countries where the ROL is weak—as are institutions for reconciliation and restorative justice.⁵³ ROL projects that address the DRG Strategy objectives of human rights protection and increased institutional accountability to the law are a natural fit for activities on protecting GBV victims and strengthening the justice system’s response to human rights violations.

IV. FRAMING GENDER-BASED VIOLENCE IN RULE OF LAW PROJECTS

The measures that states must take to meet the due diligence standard are predicated on a competent justice system and respect for the rule of law. Addressing GBV requires multiple and complex interventions. Likewise, projects that aim to strengthen the rule of law can take a number of approaches and encompass a variety of activities. Before looking in detail at the various entry points for integrating GBV activities into ROL projects, it is useful to outline a framework that helps conceptualize how the justice system and GBV intersect, and provides a structure for considering the key entry points for integrating GBV activities into ROL projects.

A. ACCESS TO JUSTICE AND STRENGTHENING THE JUSTICE CHAIN

The focal point of ROL projects that address GBV should be ensuring that victims have access to fair and effective remedies. Such an approach supports USAID’s key objective to promote and protect human rights. It is also consistent with promoting gender equality, as the majority of GBV victims are female. Thus, GBV activities are often initiated under broader ROL projects that aim to increase access to justice, especially for women and girls.

In countries in which the rule of law is weak, many of the barriers to accessing justice are gender neutral (for example, physical distance from law enforcement authorities and courts, poor infrastructure, and

52. USAID, *USAID Strategy on Democracy, Human Rights and Governance* (Washington, DC, 2013), 11.

53. *Ibid.*, 23, 29.

high costs of lawyers and legal proceedings), but women generally, and GBV victims specifically, usually face additional barriers. Such barriers exist throughout the justice system and are the product of societal attitudes toward GBV and the resources available to individual victims (for example, whether they have knowledge of their rights).

A first step in developing ROL projects on GBV is identifying the specific challenges GBV victims face when accessing justice, taking into consideration the procedures and institutions throughout the justice process that a victim must navigate in order to obtain redress. Mapping this process is often conceptualized as a series of steps or a “justice chain.”⁵⁴ The justice chain is not limited to formal national systems, but “extends through international courts and tribunals, treaty bodies, in particular the CEDAW Committee under its Optional Protocol, Special Procedures, regional mechanisms, state courts and other formal and informal justice systems within the state.”⁵⁵ In the GBV context, it is necessary not only to have a clear understanding of the justice chains GBV victims may use, but also where breaks in the chain (i.e., attrition in the justice system) occur. Experts point out that conventional approaches to justice programming usually “prioritize the formal justice system as the primary avenue for women to seek redress ... or they provide very static and siloed approaches to particular components of the security and justice process without sufficiently taking account of how these are interconnected in practice, or the wider socio-political and cultural context in which these are embedded.”⁵⁶ A justice chain analysis should anticipate victims using multiple justice chains (in formal and informal systems), the possibility of accessing the chain at different points, as well as different justice chains being used for different forms of GBV. Because men can also be victims of GBV, gender-specific experiences should be considered when identifying barriers to accessing justice.

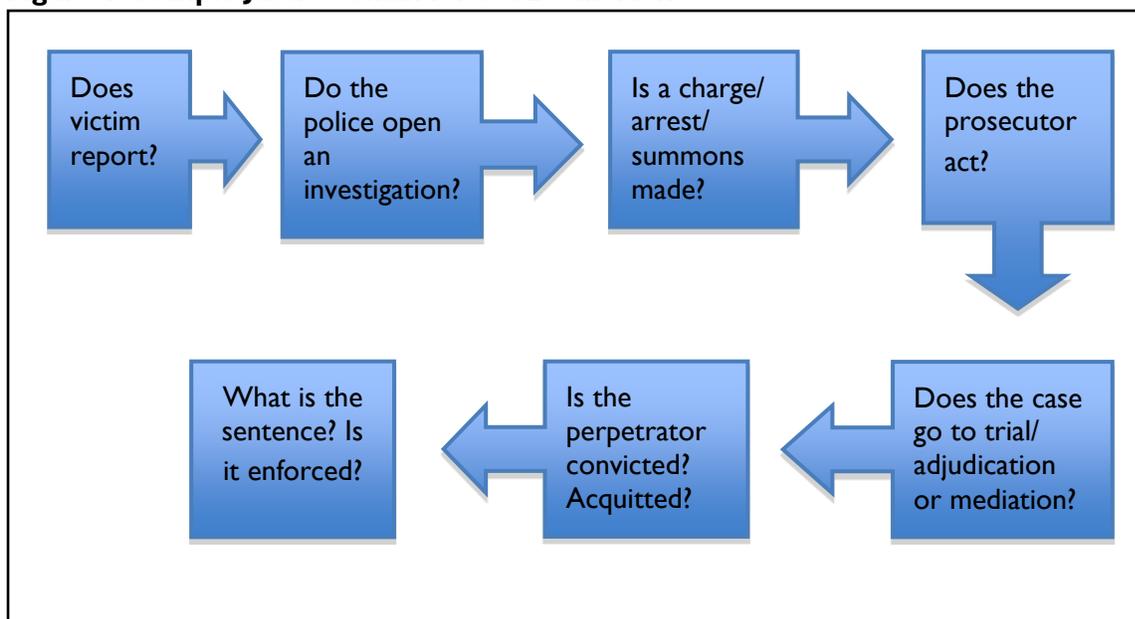
The figure below illustrates a simplified justice chain for an incident of GBV. The victim must first decide whether to report the crime, and to whom it should be reported (e.g., law enforcement, a medical professional, etc.). If a report is made to the police, they may initiate an investigation, or they may take no action. If the case reaches the court, it may be dismissed, mediated, or adjudicated, all of which would have a different result in terms of the victim accessing justice. If adjudicated, the defendant may ultimately be acquitted or convicted; the sentence could take a number of forms, such as imprisonment, a monetary fine, or probation.⁵⁷ At any point, attrition can occur due to evidentiary or procedural issues, acts or omissions by the relevant justice sector actors, or, in some cases, a victim’s unwillingness to take part in the prosecution.

54. UN Committee on the Elimination of Discrimination against Women, *Access to Justice—Concept Note for Half Day General Discussion* (54th Session, Geneva, February 11–March 1, 2013), 9.

55. Frances Raday, Chair of the UN Working Group on the issue of discrimination against women in law and in practice, “Women’s Access to Justice” (presentation at General Discussion of the Committee on the Elimination of Discrimination against Women, 54th Session, Geneva, February 11–March 1, 2013), 1.

56. Lisa Denney and Pilar Domingo, *A Problem-Focused Approach to Violence Against Women: The Political-Economy of Justice and Security Programming* (London: Overseas Development Institute, 2013), 5.

57. UN Entity for Gender Equality and the Empowerment of Women (UN Women), *Progress of the World’s Women: In Pursuit of Justice 2011–2012* (New York, 2011), 48.

Figure 1: Sample Justice Chain for a GBV Incident

B. GENDER-SENSITIVE REFORM OF THE JUSTICE SYSTEM

Once the points where attrition occurs in the justice chain have been identified, gender-sensitive legal reform is a means of addressing the specific barriers victims of GBV face when accessing justice. Although GBV can take different forms and national justice systems are each distinct, the critical barriers that should be addressed in ROL legal reform projects can be categorized as follows:

Discriminatory legal framework. National laws may include explicitly or implicitly discriminatory norms or provisions. Legal frameworks might not recognize specific forms of GBV. Laws may be gender neutral and thus fail to take into account the fact that women are disproportionately affected, such as when acts of domestic violence are addressed through general criminal law on assault.

Institutional and procedural obstacles. “Access to justice also depends on the existence of adequate institutions and effective implementation of rules of procedure governing them.”⁵⁸ A number of factors can negate the effectiveness of the justice system’s structures and institutions. Actors within the justice system, such as police, prosecutors, judges, and lawyers, may not have the knowledge, skills, or capacity to manage GBV cases adequately. Procedures, such as referral mechanisms or strategies that would mandate responsibilities and actions, may not exist. Certain court procedures and evidentiary standards may present particular burdens for victims of GBV. Sanctions and punishments available under the law may result in outcomes that are not effective or do not provide adequate redress to victims, which is often the case with domestic violence.⁵⁹ Other institutional failures may stem from systemic issues such as corruption, lack of political will, or a culture of impunity.

Attitudinal and social barriers. The justice system reflects the social norms of the larger society, and therefore the system itself may perpetuate gender discrimination. “Justice systems of a patriarchal

58. UN Committee on the Elimination of Discrimination against Women, *Access to Justice—Concept Note for Half Day General Discussion*, 10.

59. *Ibid.*, 11.

nature may lead to negative gender stereotypes and discriminatory attitudes of service providers, including the police and judiciary.”⁶⁰ Legal professionals may lack sensitivity to the issue of GBV or may act out of bias which manifests as negative or hostile attitudes toward victims, trivialization of GBV, or further verbal or psychological abuse of the victim.⁶¹ Therefore, sensitization of law enforcement and legal professionals is an especially important tool for ensuring that all GBV victims are protected, and especially those who might face multiple forms of discrimination, such as minorities, people with disabilities, or people from LGBT communities. “[P]olice and legal professionals must be aware of their role in protecting persons with disabilities. . . . the rule of law can be a loud voice in taking a stance that SGBV among persons with disabilities and the general population is unacceptable.”⁶²

Victims may also internalize the social norms of their communities, such as the notions that domestic violence is a private matter or that sexual violence is shameful. These attitudes may prevent them from reporting incidents, lead them to withdraw complaints, or inhibit them from cooperating with authorities. Other factors, such as lack of financial resources, economic dependence, lack of education, and illiteracy, particularly legal illiteracy, all present significant hurdles to accessing justice. Some of these challenges can be addressed through ROL projects while others require coordination across sectors.

C. ENHANCING THE ROLE OF WOMEN AND ENGAGING MEN

Most states’ justice, law enforcement, and security systems, both formal and informal, are dominated by men, and so increasing women’s representation in key institutions is an important approach to making justice more accessible to female victims of GBV. In Rwanda, for example, a government requirement that a third of judges on Gacaca genocide courts be female has been a “major factor in assisting women to overcome their reluctance to present stories of rape, sexual violence or sexual harassment.”⁶³

Support for women’s nongovernmental and legal organizations has resulted in important improvements in how the justice system responds to GBV. Such organizations reach out to and support GBV victims and work with formal and non-state justice institutions to combat GBV in ways that are compatible with local traditions and culture. Results of these efforts include amendments of laws and strategic litigation to improve the legal community’s understanding of GBV.⁶⁴

Engaging men in efforts to prevent and respond to GBV is a best practice. Within ROL projects, men can serve as role models, change agents, advocates, informants, and partners in design, implementation, and evaluation.⁶⁵ Engagement with men should not be limited to sensitizing or training male legal and justice professionals. A more constructive approach used around the world encourages men in their professional capacities to play a role in creating gender-sensitive justice systems.

Recognizing that individual men have differing experiences with GBV is also important. Statistics from countries that collect data about perpetrators and victims of GBV indicate that most perpetrators are male. However, only a minority of the male population as a whole commits acts of GBV. Research suggests that there is a correlation between men’s childhood exposure to violence (as victims and

60. Ibid.

61. Ibid.

62. Melinda Hadi and Sophia Mutoni, *An Assessment of the Factors of Risk and Vulnerability of Women and Men with Disabilities to Sexual and Gender-Based Violence* (Kigali, Rwanda: Handicap International Rwanda, 2012), 11.

63. UNDP, UNICEF, and UN Women, *Informal Justice Systems: Charting a Course for Human Rights-Based Engagement* (New York, 2012), 121.

64. UN Women, *Progress of the World’s Women: In Pursuit of Justice 2011–2012*, 118.

65. U.S. Department of State and USAID, *United States Strategy to Prevent and Respond to Gender-Based Violence Globally*, 14.

witnesses) and likelihood that they will perpetrate GBV as adults.⁶⁶ Perpetrators of GBV often hold positions of power in the private or public sphere. While most perpetrators are known to their victims (intimate partner, family member, etc.), others may include community leaders, the police, armed forces, or peacekeeping personnel (the latter two in conflict situations).⁶⁷ Therefore law enforcement and the formal and military justice sectors are especially effective entry points both for holding men accountable for their actions and ensuring the institutional culture does not condone GBV in any form. In the context of ROL projects, ending impunity can mean improving prosecution and sentencing in parallel with treatment and educational programs for convicted perpetrators, in order to prevent future violence. Engaging men provides an opportunity to discuss the causes of GBV, its consequences for females and males, and the discriminatory attitudes that perpetuate it.⁶⁸

D. COORDINATION WITHIN THE JUSTICE SYSTEM AND ACROSS SECTORS

A broad-based approach that entails coordinating and integrating a wide range of actors is a good practice that should be reinforced in activities on improving the justice system's response to GBV. Interinstitutional coordination within the justice system is crucial to ending attrition in the justice chain. Each institution must be aware of the others' mandates, coordinate their actions, and collaborate (for example, justice systems that permit the temporary removal of perpetrators of domestic violence from the home require communication between the police, probation or parole officers, judges/magistrates, and lawyers to ensure enforcement of the order and the victim's safety). Although a ROL project might have a narrow focus on particular legal professionals or a segment of the justice system, care should be taken to ensure that any GBV activities are supportive of and cohesive with efforts carried out by other USAID implementers, national governments, or donor organizations.

For any justice system reform to be effective, it must be supported by multiple stakeholders across sectors—from the community to the national level. This is particularly the case in plural justice systems and when addressing harmful traditional practices. Community-level interventions and engagement with civic and religious leaders, social protection and healthcare workers, educational institutions, grassroots organizations and families are needed. When such stakeholders are mobilized and involved, “legislation can then gain traction as a genuine deterrent.”⁶⁹ Coordinated response and referral mechanisms, in which the relevant sectors agree to core principles of intervention with victim protection at the center, have been effective in addressing domestic violence and TIP. While the justice system intersects with other professions in some GBV contexts, such as forensics, most ROL projects will have limited overlap with other sectors. In designing ROL projects, efforts should be made to coordinate GBV activities with any relevant portfolios, both within USAID and supported by other organizations.

V. ENTRY POINTS FOR PROJECT DESIGN AND PROMISING PRACTICES

This section provides suggestions on ways to prevent and respond to GBV through ROL projects. Entry points are listed here as discrete topics, but in reality activities in different areas often overlap. For

66. Brian Heilman, Luciana Hebert, and Nastasia Paul-Gera, *The Making of Sexual Violence: How Does a Boy Grow Up to Commit Rape? Evidence from Five IMAGES Countries* (Washington, DC: International Center for Research on Women (ICRW) and Promundo, 2014), 8.

67. Global Protection Cluster Working Group. *Handbook for the Protection of Internally Displaced People*, Action Sheet 4: Gender-based Violence (2010), 197. http://www.globalprotectioncluster.org/_assets/files/news_and_publications/IDP_Handbook_EN.pdf

68. See UN Women, Virtual Knowledge Centre to End Violence Against Women and Girls, “Men and Boys: Guiding Principles,” <http://www.endvawnow.org/en/modules/view/9-men-boys.html#46>.

69. Plan and OSRSG/VAC, *Protecting Children from Harmful Practices in Plural Legal Systems* (New York, 2012), 23.

example, the development of a benchbook on domestic violence would generally be accompanied by training for judges and judicial staff on the same topic. A project to draft and enact legislation on FGM/C would most likely also include an awareness-raising component about the existence of the law, and campaigns at the community level to ensure support for the law. The entry points collected in this Toolkit fit naturally under ROL projects on gender justice, but they are also relevant to projects that address such topics as human rights protection, strengthening the judiciary, court reform, regulatory reform, legal education, increasing public confidence in the justice system, and reducing corruption.

Box 5. Project Design Tip



Because a victim-centered approach should be at the heart of designing GBV activities, it may be useful to consult with or involve GBV survivors and experts who work with or can represent GBV victims, but who are not necessarily legal professionals, in the design process.

A. IDENTIFICATION OF GAPS IN THE JUSTICE CHAIN

A lack of comprehensive data on GBV is characteristic of most developing countries and is a problem that impedes the design of targeted activities. Data sources are generally limited to qualitative research, demographic studies, household surveys, independent surveys and records from crisis centers or other service providers, and sometimes official statistics. Official statistics most often reflect the number of criminal cases registered in the formal justice system for a particular type of GBV. Other data may be included if there is good coordination among government and nongovernment agencies. This is the case in the Kyrgyz Republic, which annually publishes statistics on registered crimes against women (including domestic violence, rape, and forced marriage), applications to the formal justice system as well as to aksakal courts (a traditional council of male elders) and crisis centers, and data on the resolution of criminal and administrative cases.⁷⁰ Provisions on data collection are often included in national laws and action plans on GBV, and ROL projects on legislative and policy reform could support this practice. Activities to develop a coordinated government response to GBV could include training to strengthen record keeping practices so that data, disaggregated by sex and form of GBV, can be compared by agency, region, and over time. Representatives of law enforcement (police), justice institutions (courts), and national statistics agencies are some of the stakeholders who should be included in these activities.

ROL projects can also include activities to support qualitative research on the barriers to justice that GBV victims face. Research of this type, conducted in South Africa, revealed precisely how rape cases progress through the justice system: of all reported cases, half were dropped at the stage of police investigation, and of those that proceeded to prosecution, one in five was dropped. Only 17 percent of total reported rapes reached court, and 4 percent ended in a conviction for rape.⁷¹ ROL assessments are also effective entry points for conducting research on GBV. USAID's ROL assessment for Morocco, for example, includes information about VAW within a broader discussion of human rights protection.⁷² The findings of a participatory research project in Cambodia to document GBV experienced by women with disabilities supported the development of training, awareness raising, and advocacy materials, as well as a brief submitted to the CEDAW General Discussion on Access to Justice (held during the 54th session in 2013).⁷³

70. See <http://www.stat.kg>.

71. UN Women, *Progress of the World's Women: In Pursuit of Justice 2011–2012*, 49.

72. See, e.g. DPK Consulting, *Morocco Rule of Law Assessment, Final Report* (Washington DC, 2010).

73. The research project, funded by AusAID, was carried out by several organizations, including Banteay Srei, the Cambodian Disabled People's Organisation, and the International Women's Development Agency (IWDA). See Jill Astbury and Fareen

Box 6. Considerations When Collecting Data

Keep in mind that there are ethical concerns in conducting research and collecting data on GBV, such as the paramount need to ensure the safety and confidentiality of respondents. Further guidance on this topic is included in section VI: Monitoring and Evaluation.

B. LEGISLATIVE REFORM

Projects aimed at strengthening the law would most likely focus on national legislation, but activities to lobby for ratification of international or regional conventions on GBV could also be relevant. For example, as of July 2014, only four countries in the Europe and Eurasia (E&E) region have ratified the CoE Convention on Preventing and Combating Violence Against Women and Domestic Violence.⁷⁴

At the national level, many countries have already undertaken legal reform to improve the prevention of and redress for various types of GBV, particularly domestic violence, rape, sexual assault, and sexual harassment. As of 2011, 125 countries had passed legislation on domestic violence (including almost all countries in the Latin America and Caribbean (LAC) region, but less than a quarter of Middle Eastern and North African (MENA) countries), and many countries (117 in total) have passed laws to prohibit sexual harassment in the workplace.⁷⁵ However, only a small number explicitly criminalize rape within marriage.⁷⁶ “While almost all countries criminalize rape, penal codes often define sexual violence very narrowly, with many still framing the problem in terms of indecency or immorality, or as a crime against the family or society, rather than a violation of an individual’s bodily integrity.”⁷⁷ According to information collected by the UN, 46 countries have laws or decrees on FGM/C, 26 of which are in Africa, while the others are primarily high income countries with large immigrant populations.⁷⁸

When designing ROL activities on law reform, there are multiple entry points through which to strengthen the legal response to GBV. One approach is to develop stand-alone activities. Another is to identify ways that broader reform projects (e.g., of the criminal code or family code) could include activities to increase the gender sensitivity of laws undergoing amendment. The model framework for developing legislation on VAW identifies these key entry points:⁷⁹

✓ **Equal application of laws.** Ensuring constitutional protection of gender equality and enacting equal rights laws with remedies for discrimination are necessary for addressing GBV as a form of gender-based discrimination.

Walji, *Triple Jeopardy: Gender-Based Violence and Human Rights Violations Experienced by Women with Disabilities in Cambodia* (AusAID Research Working Paper, January 1, 2013).

74. These countries are: Albania, Bosnia and Herzegovina, Montenegro, and Serbia. The Republic of Macedonia and Ukraine have signed the convention.

75. UN Women, *Progress of the World’s Women: In Pursuit of Justice 2011–2012*, 24.

76. Ibid.

77. UN Women, *Progress of the World’s Women: In Pursuit of Justice 2011–2012*, 33. See Annex 4 for a complete list of the status of laws on domestic violence, sexual harassment, and marital rape by country.

78. See UNFPA, “National Legislation,” accessed March 2014, <http://www.unfpa.org/files/live/sites/unfpa/files/Documents/FGM/National%20Laws.pdf>.

79. See UN Department of Economic and Social Affairs, Division for the Advancement of Women, *Handbook for Legislation on Violence Against Women* (New York, 2010) and *Supplement to the Handbook on Harmful Practices Against Women* (2011).

✓ **Comprehensive laws.** Traditionally, laws that address GBV have focused on criminalization—a limited approach. A comprehensive legal framework that addresses prevention of violence, protection of victims, and prosecution perpetrators, in contrast, is considered a good practice. Comprehensive legislation can take the form of stand-alone laws on GBV in its multiple forms, or specific forms such as domestic violence or harmful practices. It is also critical that a range of legal remedies are provided, and so, in addition to criminal law, other areas of the law, such as civil law, administrative law and constitutional law, are important areas for reform.

In domestic violence cases, for example, civil law reforms have facilitated the introduction of temporary protection/restraining orders (a civil order generally issued by courts through a fast-tracked process), which have been instrumental in providing victims with immediate relief and ensuring their safety. Civil orders have a lower burden of proof than that which is required in criminal cases, and the decision to seek such an order rests with the victim herself and does not depend on the discretion of the police, prosecutor or judge.⁸⁰ Furthermore, this remedy addresses the particular needs of survivors. Because DV usually involves intimate partners, victims can be reluctant to initiate legal cases when it is likely that their partners will be criminally prosecuted and jailed. Similarly, enforcement of laws against FGM/C is often hampered by judges' reluctance to sentence perpetrators (excisors who are usually elderly women) or their accomplices (the victims' parents) to imprisonment. A project promoting enforcement of an FGM/C law in Burkina Faso found that judges routinely suspended sentences and that monetary fines were a more effective deterrent.⁸¹

✓ **Amendment of conflicting legal provisions.** Reforming existing laws to be more gender-sensitive may be an important step in preventing GBV and protecting its victims. Laws may need to be repealed or amended to align national legislation with international standards. For example, the UN Convention on the Rights of the Child requires equalizing and raising the marital age for females and males. However, some countries' laws recognize different ages for the legal age of consent, female marital age, and child sexual offenses. Amending criminal law and procedure can also remove barriers to justice, for example, by removing defenses to rape that are based on the concept of implied consent or marriage; by prohibiting the introduction of information about a victim's previous sexual behavior into evidence; by defining rape against minors as an aggravated offense; or by eliminating the classification of "private prosecution" for all forms of GBV.

✓ **Supporting law.** In order to ensure that a justice system responds effectively to GBV in practice, it may be necessary to adopt or amend supporting laws. For example, legal guarantees of free legal assistance can be explicitly extended to victims of GBV. The law can be amended to allow collective complaints, which are needed to address mass violations such as sexual violence occurring during conflict.⁸² Domestic violence victims often seek to leave violent relationships through divorce, and so family law should contain provisions on DV in the context of dissolution of marriage and determinations of child custody and visitation rights. Laws on victim/witness protection should also be developed in parallel with laws on GBV. Requiring and enforcing the legal registration of births and marriages is also a means of combating child marriage.⁸³

80. Lori L. Heise, *What Works to Prevent Partner Violence: An Evidence Overview* (Strive Research Consortium: London, 2011), 74.

81. UNFPA/UNICEF, *Burkina Faso has a Strong Law against FGM/C, but Winning Hearts and Minds Remains Crucial*, accessed March 2014, http://www.unfpa.org/gender/docs/fgmc_kit/burkinafaso.pdf.

82. Many countries do not permit class action or collective complaints, and even in cases of mass violations, victims must bring complaints individually. See Redress Trust, *Breaking Down Obstacles to Justice for Gender-Based Violence in Africa* (report from a training workshop on strategic litigation for conflict-related gender-based violence in Africa, Kampala, Uganda, April 25–27, 2012), 7.

83. Equality Now, *Protecting the Girl Child: Using the Law to End Child, Early and Forced Marriage and Related Human Rights Violations* (New York, 2014), 11.

C. REGULATORY REFORM

Legislative and regulatory reforms go hand in hand, as the effective implementation of the law is dependent on the existence of clear policies and procedures. ROL actors have a key role in developing and adopting policies that facilitate the implementation of GBV legislation.

✓ **Action plans and strategies.** Legal reform in the GBV context is usually supported by a policy framework, such as a national action plan or strategy on GBV, which outlines not only the justice system response but also the roles of other agencies and institutions.

✓ **Specialized agencies.** Specific agencies devoted to addressing GBV within law enforcement and justice institutions not only improve the legal response to and support for victims, but they also send a clear message that the state does not tolerate GBV.

Women-only **police stations** and domestic violence **police units** (or desks) that focus on crimes committed against women are considered a good practice and have been developed in Latin America (Brazil, Ecuador, Nicaragua, and Peru), South Asia (Afghanistan, Bangladesh, India, and Pakistan), Africa (Liberia, Sierra Leone, and South Africa), and Kosovo. An evaluation of women’s police stations in Latin America—a region that piloted this approach—suggests that without concerted training and sensitization efforts, such police units may remain influenced by “traditional concepts of gender and the family, and thus, they do not necessarily coincide with women’s expectations.”⁸⁴ A particular strength of the police units, however, is their contribution to “making the problem of violence against women visible as a public, collective, and punishable matter; furthermore, they offer women new opportunities to defend their rights, [even if they] do not necessarily contribute to eliminating or reducing violence, or guaranteeing access to justice for women.”⁸⁵ **Community police** can play an important role in reducing violence if they are trained in early intervention and specifically how to identify families “that would benefit from social service prevention/intervention services.”⁸⁶

Specialized courts have been introduced in various jurisdictions to address specific forms of GBV. For example, the Serious Crimes Courts in Albania handles TIP cases, and “fast-track courts” in India are dedicated to rape cases. In Honduras, mobile “justices of the peace” serve poor neighborhoods, and about two-thirds of the users are women, most with cases concerning DV or other family matters.⁸⁷ In order to address forms of GBV where victims are unlikely to come forward, judicial bodies can be encouraged to act *suo motu*—without a prior motion or formal request from a party—to address poor enforcement of laws that prohibit harmful practices such as child marriage.⁸⁸

“**One-stop**” **justice centers** that deal primarily with GBV and house representatives of relevant ministries, law enforcement, and justice offices (e.g., prosecutors, legal assistance attorneys, and probation officers), social services, and healthcare providers under one roof, are also instrumental in helping victims access the justice system. USAID is supporting the expansion of such centers in

84. Nadine Jubb et al., *Women’s Police Stations in Latin America: An Entry Point for Stopping Violence and Gaining Access to Justice* (Quito, Ecuador: Centre for Planning and Social Studies, 2010), 15–16.

85. *Ibid.*

86. John Buchanan, *A Field Guide for USAID Democracy and Governance Officers: Assistance to Civilian Law Enforcement in Developing Countries* (Washington, DC: USAID, 2011), 16.

87. Alys Willman and Crystal Corman, *Sexual and Gender-Based Violence: What is the World Bank Doing and What Have We Learned* (Washington, DC: World Bank, 2013), 25.

88. Center for Reproductive Rights, *Child Marriage in South Asia: International and Constitutional Legal Standards and Jurisprudence for Promoting Accountability and Change* (New York, 2013), 59.

Mexico—Women’s Justice Centers—which are being created under a federal government criminal justice reform initiative to improve victims’ rights protection.⁸⁹

The justice system can also become more responsive to GBV victims through the introduction of **specific technologies**, for example allowing video-linked witness testimony in court and introducing child-friendly forensic facilities and courtrooms. Courts in Argentina, Brazil, and Uruguay use technology to protect victims in DV cases. When issuing restraining orders, courts provide victims with panic buttons that omit a GPS signal. Activation triggers an alarm at the police station and begins automatically recording audio that can be used as evidence in hearings on the restraining order violation.⁹⁰

✓ **Policies.** In order for dedicated GBV structures to operate effectively, policies must be in place that describe their functions and staff responsibilities. Internal policies, protocols, and codes of conduct elaborate the steps that law enforcement and legal professionals should take when dealing with GBV cases (for example, in the U.S. many states have mandatory arrest and/or “no drop” policies for DV cases, which mean that police and prosecutors cannot exercise discretion about whether a case will go forward). Protocols, which ensure that policies are appropriately implemented, also dictate the correct handling of forensic evidence in sexual violence cases. UN Women, the UN Office of the High Commissioner for Human Rights, and several other organizations in LAC are currently developing the Protocol for Investigating Gender-related Deaths: Femicide—a regional instrument that will “provide guidelines and instruments for the accurate investigation of these crimes, including in the collection of evidence and in criminal prosecutions.”⁹¹

✓ **Perpetrator programs.** In addition to punishing perpetrators of GBV, courts may mandate or refer a person to attend specialized programs that are designed to rehabilitate perpetrators and prevent future violence, most often in cases of domestic violence. While such programs can use a therapeutic, rehabilitative, or educational approach, they are closely coordinated with justice system interventions and are often required as part of a criminal sentence.

Box 7: Including Police in GBV Activities



The ADS places some limitations on the support USAID can provide to the police. However, USAID “may assist cooperating countries in selected, clearly defined law enforcement activities, not involving matters of internal security, in which the United States has a special interest.” It is permissible, for example, for members of the police to be included in USAID programs that support a multipronged response to GBV, as key stakeholders within a larger group. Therefore, when USAID’s assessment has determined that protection of GBV victims requires improved law enforcement procedures, it is particularly useful to coordinate with other donors that work directly with the police, such as the U.S. Department of State Bureau of International Narcotics and Law Enforcement Affairs (INL) or the UN Office on Drugs and Crime (UNODC), to find areas of synergy.

89. USAID, “Women’s Justice Center Opens Doors in Mexico,” accessed March 2014, <http://www.usaid.gov/results-data/success-stories/womens-justice-center-opens-doors-mexico>.

90. Shasta Darlington, “Brazil City Battles Domestic Abuse with Mobile Panic Button,” *CNN*, November 19, 2013, <http://edition.cnn.com/2013/11/19/world/americas/brazil-panic-buttons/>.

91. UN Women News, “Femicide in Latin America,” April 4, 2013, <http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america>.

D. CAPACITY BUILDING AND SUPPORT FOR LEGAL PROFESSIONALS

Activities to build the capacity of law enforcement and legal professionals to address GBV focus on improving their ability to implement the law and comply with policies on GBV as well as on sensitizing them to the problem. Gender-based discrimination is a root cause of GBV, and actors within the justice system are influenced by the same societal biases and stereotypes as others.

✓ **Men’s leadership.** The field of capacity building is one in which there are opportunities to design activities that engage men, especially high-level officials, not just as trainees but as trainers and champions of new policies and processes. Evaluations of police training programs suggest that capacity building is most effective when trainings are supported by top-level management, are linked to mandatory protocols, and are conducted by other law enforcement personnel.⁹² The support of senior leadership, not only in the police forces but in other agencies, is critical to ensuring that trainees adopt new behaviors. Structures that are not formally recognized but have de facto governing authority are also important. In Uganda, the Sabinu Elders Association, a council of male and female clan leaders, led a multipart campaign against FGM/C and was instrumental in lobbying local authorities to adopt bylaws and a district ordinance prohibiting FGM/C—actions that paved the way for the passage of a national FGM/C law.⁹³

✓ **Professional exchanges.** Capacity building is effective when it includes interactions among professionals in similar roles as well as those in other relevant institutions, allowing participants to gain insights into each other’s roles and responsibilities, operating procedures and institutional knowledge. For example, prosecutors and judges might benefit from speaking with social service providers, especially from crisis centers and shelters, to understand better how to protect victims’ safety. Under a USG project on improving the handling of SGBV cases in Haiti, police, prosecutors, and judges have participated in cross-training that included interactions with counterparts in New York and Brazil.⁹⁴

✓ **Women in the legal profession.** Associations of women judges and women lawyers have played an important role in lobbying for legal change. Such organizations often lead legal reform efforts around GBV; they take on advocacy roles and also organize training and sensitization programs for other legal professionals. The Haitian Chapter of the International Association of Women Judges (IAWJ) has conducted USG-supported training for female judges, lawyers, and public notaries on GBV and TIP.⁹⁵ National associations of the IAWJ in Bosnia and Herzegovina, the Philippines and Tanzania have developed country-specific toolkits on addressing sexual exploitation and violence.⁹⁶

E. LEGAL TOOLS AND RESOURCES

Legal tools and resources include written guides, such as manuals, handbooks, or benchbooks, designed to provide concrete guidance and recommendations to specific groups of legal professionals, which can streamline and simplify the process of dealing with GBV cases. It is a good practice to work closely with the relevant legal actors to develop such tools so that they are responsive to the specific requirements

92. Willman and Corman, *Sexual and Gender-Based Violence: What is the World Bank Doing and What Have We Learned*, 25.

93. UNFPA/UNICEF, *Uganda Law Bans Genital Cutting: Tribal Elders’ Advocacy is the Key*, accessed March 2014, http://www.unfpa.org/gender/docs/fgmc_kit/UgandaReport.pdf.

94. USAID/Haiti website, “Gender Equity and Women’s Empowerment: Addressing Challenges,” accessed March 2014, <http://www.usaid.gov/haiti/gender-equity-and-womens-empowerment>.

95. *Ibid*,

96. The toolkits were developed under a project of the IAWJ and the Dutch Ministry of Foreign Affairs. See website of the International Association of Women, <http://www.iawj.org/resources.html>.

of each agency. It is also effective to consult with organizations that provide support to GBV survivors, as they have insights into the needs of people who have experienced GBV that can be included in such manuals (this is especially important when developing risk assessment guides). The topic of GBV can also be integrated into more general manuals and guides on court management and administration or judicial ethics and accountability.

In Albania, under the Women's Legal Rights Initiative (USAID/OSCE), a judicial benchbook was created in parallel with the adoption of a law on DV. The benchbook provides judges with technical guidance on the procedure for issuing protection orders (including a script that judges can use during hearings and sample petitions); it also outlines the characteristics of domestic violence and the role of the court in preventing GBV.⁹⁷ Under the USAID Justice Sector Strengthening Program for South Africa, the Regional Court Presidents' Forum is developing a Peer Information Tool with "resources on case law, guidelines and other sources of information useful for regional court magistrates when preparing for or presiding over sexual offence cases."⁹⁸ The Tool will be tested in several pilot sites before being distributed to the judiciary. Under a UNDP-supported project in Zambia, a Casebook of Local Court Judgments and a training manual on GBV were developed for both court magistrates and traditional leaders and have just begun to be used.⁹⁹

F. LEGAL ASSISTANCE AND PARALEGAL PROGRAMS

Legal assistance and pro bono legal representation can be provided through special legal service centers or ministry of justice legal aid programs—by attorneys or paralegals. When designing legal assistance programs, it is important that they "come to the client" and respond to the precise barriers that GBV survivors face in accessing justice. For example, in Iraq women who have experienced violence seldom have the ability to hire a lawyer due to their lack of financial independence; in cases of domestic violence they may have been disinherited from their families. Victims of human trafficking or women who engaged in prostitution who have been detained are unable to hire lawyers while in detention.¹⁰⁰ Other barriers include physical distance from judicial centers, language differences, or lack of knowledge that legal remedies are available. Legal advocates can play a key role not only in helping victims navigate the legal process but also in mitigating trauma and insensitive or hostile treatment that is likely to occur during the process. To be effective in this role, legal aid attorneys and paralegals should be trained in GBV issues and how to make necessary referrals to psychosocial assistance.

USAID has supported legal aid centers/clinics, paralegal networks, and other non-lawyer advocates to provide better assistance to women and respond to GBV in all regions where the Agency works, including in Guinea, Guatemala, Iraq, Nepal, Russia, South Africa, and Timor-Leste, among others.

✓ **Legal aid centers.** ROL activities can be designed to improve the capacity of legal aid organizations to work with GBV victims in locations that are isolated from the justice system. In Haiti, for example, female mediators at legal services centers in two impoverished areas received training under a USAID

97. See USAID and OSCE Presence in Albania, *Albanian Judicial Benchbook on Protection Orders* (2008), available from <http://www.osce.org/albania/33044>.

98. National Center for State Courts, *Justice Sector Strengthening Program for South Africa (JSSP): Quarterly Progress Report No. 6* (Arlington, 2012), 10.

99. See UNDP in Zambia website, *Strengthening the Role of Adjudicators in Handling GBV Cases*, accessed March 2014, <http://www.undp.org/content/zambia/en/home/ourwork/womenempowerment/successstories/strengthening-the-role-of-adjudicators-in-handling--gbv-cases/>.

100. Civil Development Organization, "Access to Justice for Women Who are Victims of Gender Based Violence," June 12, 2013, <http://www.cdo-iraq.org/en/first-post/>.

project to provide mediation in cases of domestic violence.¹⁰¹ In Paraguay the Ministry for Women's Affairs finances four regional Women's Support Service (SEDAMUR) centers, one of which is located in a region with a concentration of indigenous communities, which provide free legal counseling to GBV victims.¹⁰² The Global Equality Fund (a public-private fund managed by the U.S. Department of State's Bureau for Democracy, Human Rights, and Labor with several partners, including USAID) supports civil society efforts to protect the rights of LGBT persons. The Fund has provided small grants to build the capacity of local lawyers and LGBT and human rights organizations to provide legal protection and litigation support to LGBT persons, which could include in GBV cases (for example, in Cameroon, Moldova, and Sri Lanka).¹⁰³ Other aspects of capacity-building for legal aid centers to assist GBV victims include defining the criteria for eligibility, improving case management and record keeping, and ensuring client confidentiality.

✓ **Paralegals.** There are many promising examples of training programs for paralegals—often women—who provide outreach and assistance to victims or people at risk for GBV within their communities. For example, the U.S. Department of State is supporting a project in Uganda that provides legal assistance to women survivors of SGBV by training community health workers to serve as paralegals.¹⁰⁴ A project in Nigeria is establishing paralegal and mediation services for LGBT communities. Training has been conducted for paralegals, and next steps include the development of a manual on LGBT issues and establishing a paralegal network.¹⁰⁵ The paralegals are trained in how to respond to human rights violations of LGBT persons.

The World Bank's Women's Legal Empowerment program strengthened an Indonesian civil society organization, Program for Women Headed Households in Indonesia (PEKKA), that works on community empowerment projects to train paralegals to “disseminate legal information, especially in connection with family law and domestic violence, provide legal consultation and assistance to village women, and support policy advocacy from the bottom up.”¹⁰⁶ PEKKA paralegals assist women in filing claims in religious courts, verify their clients' data before hearings, collect any required evidence from village and subdistrict officials (such as affidavits of marriage), help find witnesses, and explain the court procedures to their clients.

In Nepal, UNICEF created the Village Paralegal Committee Program to respond to the issue of trafficking in women. Over time, the committees have evolved into community-based networks that prevent and respond to GBV against women and children more holistically. The committees comprise 13 to 15 women volunteers who are supported by lawyers if formal legal action is needed. The paralegals also provide non-legal services, such as running birth registration camps and awareness campaigns.¹⁰⁷

101. See USAID/Haiti website, “Gender Equity and Women's Empowerment: Addressing Challenges,” accessed March 2014, <http://www.usaid.gov/haiti/gender-equity-and-womens-empowerment>.

102. The initiative was supported under the GIZ ComVoMujer Program.

103. Further information about the Global Equality Fund is available at <http://www.state.gov/globalequality/>.

104. See U.S. Department of State, “Sexual and Gender-Based Violence Programs,” accessed March 2014, <http://www.state.gov/s/gwi/programs/policy/gbv/programs/index.htm>.

105. Information provided by Heartland Alliance for Human Needs & Human Rights. See also American Bar Association Rule of Law Initiative, *Promoting Justice, Economic Opportunity and Human Dignity* (Washington, DC, 2013), 20. The project is funded under the US Global Equality Fund.

106. World Bank, “Increasing Access to Justice for Women, the Poor, and Those Living in Remote Areas: An Indonesian Case Study,” *Justice for the Poor Briefing Note 6*, issue 2 (March 2011): 3.

107. UK Department for International Development, “Case Study: Fighting for Women's Rights in Nepal,” June 30, 2011, <https://www.gov.uk/government/case-studies/fighting-for-womens-rights-in-nepal>; UNICEF Nepal Newline, “Nepali Communities Fight to Change Ingrained Social Biases against Women,” July 31, 2007, http://www.unicef.org/infobycountry/nepal_40459.html.

✓ **Human rights and advocacy organizations.** Mainstream legal aid centers or paralegal programs may not be able to meet the needs of some populations that are especially vulnerable to GBV, such as PWD. One means of resolving issues of access to justice is to improve the skills of legal aid lawyers and paralegals to work with diverse clients. A parallel approach is to build the capacity of existing human rights and advocacy organizations (for example, sex worker movements, LGBT organizations and disabled people's organizations [DPOs]) to offer legal services to their constituents. Such organizations may already have lawyers on staff, or paralegal training could be provided for non-lawyer peer advocates. Both the NGO Keeping alive Societies' Hope (KaSH) (Kenya) and the Sisonke Sex Worker Movement (South Africa) provide paralegal training to sex workers. Under Sisonke's Human Rights Defender Program, paralegals conduct awareness raising sessions about basic rights and also provide "court support, weekly legal clinics and strategic litigation to address the root causes of violence against sex workers."¹⁰⁸ In Ethiopia, Handicap International conducted a project to provide a "gender- and impairment-sensitive response to SGBV against women and children with disabilities in Addis Ababa and Dire Dawa."¹⁰⁹ Peer educators were taught to identify SGBV survivors and people at risk, DPOs were trained to provide referrals to multiple services, including legal services, and service providers were supported to mainstream disability in service delivery.

G. LEGAL EDUCATION

Legal education activities on GBV can be developed separately from trainings and capacity building that target a specific professional group, and can also be a means of improving victims' access to legal services.

✓ **Continuing legal education (CLE).** CLE offers an opportunity to improve legal professionals' understanding of GBV, either as a stand-alone topic or under the umbrella of courses on gender justice, women and the law, or criminal and family law. It is a good practice to "institutionalize gender training as part of mandatory continuing legal education of judges, prosecutors, defense counsels, lawyers, court employees, and paralegals" in professional and academic institutions.¹¹⁰ A completed program in the Democratic Republic of the Congo, funded by the U.S. Department of State, included capacity building of the bar association to provide continuing legal education on gender-based crimes to members of the bar in conjunction with legal aid projects.¹¹¹

✓ **Law school curricula.** The subject of GBV can also be included as part of basic legal training in law schools and universities. The American Bar Association has developed a manual on incorporating DV issues into the law school curriculum in core courses, upper-level and specialized courses, clinical courses, and externships.¹¹² While legal education differs by country, the approach to include teaching points on GBV in such courses as constitutional law, criminal law, family law, poverty law, and human rights is adaptable to different national contexts and justice systems.

108. Global Network of Sex Work Projects (NSWP), *Documenting Good Practice by Sex Worker-Led Organizations, Occasional Paper No. 01: Addressing Violence Against Sex Workers*, (2012), 4-5; <http://www.nswp.org/resource/documenting-good-practice-issue-1-addressing-violence-against-sex-workers>.

109. Handicap International Ethiopia program website, accessed March 2014, <http://www.handicap-international.us/ethiopia#gbv>.

110. Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Gender and Security Sector Reform Training Resources website, module on Justice Reform, Key Messages*, accessed March 2014, <http://www.gssrtraining.ch/index.php/en/training-exercises/justice-reform>.

111. See U.S. Department of State archive, accessed March 2014, <http://2001-2009.state.gov/g/drl/p/c22958.htm>.

112. American Bar Association Commission on Domestic Violence, *Teach Your Students Well: Incorporating Domestic Violence Into Law School Curricula* (Washington, DC, 2003).

✓ **Clinical legal education.** Clinical programs are a promising means of teaching students about GBV and improving their skills while also providing free legal representation to GBV victims, a service that is “desperately needed” throughout the world.¹¹³ Under the U.S. model, “[l]aw students in clinical programs may represent domestic violence survivors in protection order, custody, divorce, and criminal proceedings by participating in family law or criminal defense clinics. They may serve clients’ related legal needs through prosecution, housing, bankruptcy and public benefits clinics.”¹¹⁴ In South Africa, nearly all law faculties operate legal clinics, and a number of them provide assistance in gender-related cases and family law matters, including domestic violence, divorce maintenance, and custody disputes.¹¹⁵ Whether law school-based legal clinics would be an effective initiative in any given country depends on how the local jurisdiction defines who is competent to represent clients in civil and criminal processes. Even if they are not permitted to represent clients in court, however, law students can often provide paralegal services, such as legal counseling and assist GBV victims in reporting crimes and drafting affidavits.

H. LEGAL LITERACY AND AWARENESS RAISING

Many organizations, across sectors, conduct campaigns to bring attention to the issue of GBV, but the unique entry point for ROL projects is the legal expertise and law enforcement messages they can bring to awareness raising.

✓ **Legal literacy.** Awareness-raising activities are critical to overcoming one of the factors that prevents victims from accessing justice—limited knowledge of their rights. Legal literacy projects can improve women’s and girls’ knowledge of their rights, legal protections for GBV, and how to access the justice system. This outreach is especially important for women who are illiterate, from indigenous communities, or from ethnic minority groups. In India, the U.S. Department of State supports a project to improve how GBV victims use the justice system through direct legal services that involves training organizations and individuals who provide shelter and counseling to victims on how to access the justice system, “know your rights” publications, and legal advocacy.¹¹⁶

Because many people associate GBV with VAW, legal literacy projects should make a point to include information aimed at male survivors. Likewise, special messages and campaigns can be developed to improve the legal awareness of marginalized populations, such as PWD and LBGTI persons. In the case of harmful traditional practices, such as early and forced marriage, families are often “not even aware they are breaking the law. In some countries early marriage is so prevalent, prosecutions are seldom brought.”¹¹⁷

✓ **Public awareness campaigns.** Public awareness campaigns are one approach to increase societal understanding of the legal prohibitions against GBV and to raise the consciousness of and encourage witnesses to report violence (this is especially relevant in cases of DV, sexual abuse of children, and human trafficking). Creative methods have been used to teach clients of sex workers to recognize victims of human trafficking and how to report this information to the authorities. In Afghanistan, the

113. *Ibid.*, 5.

114. *Ibid.*

115. Government of India and UNDP India, *A Study of Law School Based Legal Services Clinics* (India, 2011), 67–70.

116. The project is carried out under the Empowering Women against Gendered Violence—Enforcing Right Through the Indian Legal System Program. U.S. Department of State, “Sexual and Gender-Based Violence Programs,” accessed March 2014, <http://www.state.gov/s/gwil/programs/policy/gbv/programs/index.htm#sca>.

117. Plan UK, “Early and Forced Marriage- Facts, Figures and What You Can Do,” accessed March 2014, <http://www.plan-uk.org/early-and-forced-marriage/>.

Supreme Court and Ministry of Justice jointly developed a radio drama to increase awareness of the Afghan law on VAW and the importance of gender equality.¹¹⁸

Certain categories of service providers or professionals may lack awareness of newly enacted laws or reporting requirements. For example, a USAID assessment of healthcare providers' knowledge of the laws on GBV in Guinea found that most (72 percent) had "poor" or "very poor" knowledge of the laws, and only a small number knew that there are laws against rape, FGM/C, forced marriage, and physical violence. This raised concerns that those surveyed were unaware of their legal responsibility to report incidents of GBV to the authorities and would not be able to complete forensic examinations or medico-legal certificates properly.¹¹⁹ Campaigns can target professionals with messages about how to respond to suspected incidents of GBV, which is especially relevant to helping child victims of GBV, who may turn to specific professionals in their lives, such as a teacher, social worker, or religious leader, for assistance. While only some of these people might have a legal duty to report, all can be made aware of how the law treats GBV and the harm that can occur if it is not addressed.

✓ **Campaigns targeting potential perpetrators.** The effectiveness of offender-oriented campaigns is not entirely clear, but studies from the U.S. suggest that campaigns that appeal only to morality are not particularly helpful.¹²⁰ Educating potential perpetrators about the consequences, sanctions, and penalties for committing GBV is seen as a more effective approach.

I. ADDRESSING CORRUPTION AND BIAS IN THE JUSTICE SYSTEM

Endemic corruption in the justice system can prevent GBV victims from obtaining redress. In Tanzania, for example, "corruption acts as a barrier to help-seeking because of the additional payments (beyond the required costs of service) that are often required. On the other hand, even after a woman reports an incidence of GBV, corruption may prevent her from accessing justice if the perpetrator has the means to 'pay off' the police or local government official."¹²¹ GBV victims may also encounter bias on the part of officials. For example, in cases of sexual assault the police "intimidate the woman at the stage of investigation to prevent them coming to court and as such, the cases are often compromised."¹²² In some countries, judges "question the laws that should apply in cases of rape—for example, when there is more than one violation, such as rape and assault, judges will ask victims which charges they want to pursue, insinuating that the crime of rape is not considered adequately grave."¹²³ ROL projects can address corruption through strengthening laws on official misconduct and ensuring that the justice system is regularly monitored.

✓ **Investigation of misconduct.** In order to ensure that the officials who are charged with implementing legislation on GBV fulfill their responsibilities, it is a good practice to include provisions in laws that require penalties for noncompliance or inaction.¹²⁴ It is often very difficult in practice,

118. The project is supported by USAID's Rule of Law Stabilization Program (formal component). USAID, "Afghan Justice Institutions Raise Awareness of Women's Rights via Radio," accessed March 2014, <http://www.usaid.gov/results-data/success-stories/afghan-justice-institutions-raise-awareness-women's-rights-radio>.

119. The RESPOND Project/EngenderHealth, *Baseline Assessment of the Readiness of Health Facilities to Respond to Gender-Based Violence in Guinea* (New York, 2012), 8–9.

120. Center for Population-Oriented Policing, *Responses to the Problem of Domestic Violence*, accessed March 2014, http://www.popcenter.org/problems/domestic_violence/4.

121. Jennifer McCleary-Sills et al., *Help-Seeking Pathways and Barriers for Survivors of Gender-Based Violence in Tanzania: Results from a Study in Dar es Salaam, Mbeya, and Iringa Regions* (Dar es Salaam, Tanzania: EngenderHealth/CHAMPION, 2013), 46.

122. Vahida Nainar, *Manual: Litigation Strategies for Sexual Violence in Africa* (London: The Redress Trust, 2012), 10.

123. Redress Trust, *Breaking Down Obstacles to Justice for Gender-Based Violence in Africa*, 4.

124. UN Department of Economic and Social Affairs, Division for the Advancement of Women, *Handbook for Legislation on Violence Against Women*, 21.

however, to prove the existence of corruption or misconduct, especially in settings where recordkeeping is poor and there is no coordination between agencies in the justice system, making it difficult to track cases and pinpoint procedural abuses.¹²⁵ ROL anti-corruption projects can include activities to build the capacity of state institutions, such as the ombudsman’s office, human rights commission, the attorney general, or agencies that monitor the implementation of gender equality laws, to oversee and investigate any misconduct, with particular attention to the kinds of abuses that occur in GBV cases.

✓ **Monitoring and watchdog activities.** Monitoring and watchdog activities are a means by which independent NGOs can “police” law enforcement and justice systems. Trial and court monitoring is used to assess how laws are being implemented in practice and to gain information about the conduct of judges and court personnel. By systematically monitoring and recording such behavior, information can be conveyed to the relevant disciplinary bodies or made public for the purposes of advocating for reform. In Azerbaijan the Organization for Security and Co-operation in Europe (OSCE) has supported trial monitoring related to the implementation of the Law on the Prevention of Domestic Violence (2010), and found that judges and prosecutors are vital gatekeepers in whether a victim receives justice. Monitoring showed that in criminal proceedings, judges rarely explain the victim’s legal rights, often use inappropriate language, and press victims to reconcile with perpetrators in order to terminate the proceedings.¹²⁶

J. REPARATIONS AND STRATEGIC LITIGATION

Reparations programs can be characterized as part of a restorative justice process, as the focus is on the needs of victims rather than punishment of perpetrators. Because important efforts are being made to address impunity for perpetrators of GBV by using the law to obtain reparations for victims, such initiatives are discussed here, while restorative justice is touched on in the following section. Here, strategic litigation refers to other means of using the law, outside of the criminal justice context, to bring about systemic reform but not necessarily to obtain redress for the violations of an individual’s rights. ROL projects can include training and support for legal organizations and NGOs to bring civil suits for reparations and to use domestic and international law for strategic litigation in GBV cases.

✓ **Reparations.** Legal assistance is often provided to support GBV victims in criminal cases that result in punishment for the accused with limited relief, if any, for the victim. Reparations are a means to compensate victims and restore them to a situation similar to the one before harm was done to them. Reparations usually entail restitution or monetary compensation but can also include symbolic forms of compensation, rehabilitation or guarantees of non-repetition (under truth and reconciliation processes, for example).¹²⁷ Reparations are especially valuable when perpetrators “slip through the net” and victims do not feel they have received justice. Developing reparations schemes for victims of SGBV requires a multidisciplinary response. The justice system has an important role to play in enforcing laws that permit reparations claims, developing methods to identify beneficiaries and calculate damages, providing specialized legal representation to victims, and ensuring that reparations awards are enforced.

125. This situation is characteristic of Liberia, for example. See Government of Liberia/UN Joint Programme on Sexual and Gender-Based Violence, *In-Depth Study on Reasons for High Incidence of Sexual and Gender Based Violence in Liberia—Recommendations on Prevention and Response* (2011), 52.

126. OSCE Office in Baku, Rule of Law and Human Rights Unit, *Domestic Violence Cases in the Justice System of Azerbaijan* (Baku, Azerbaijan: OSCE, 2013), 18-20.

127. See United Nations, *Guidance Note of the Secretary-General, Reparations for Conflict-Related Sexual Violence* (Geneva, 2014), 5-6.

✓ **National courts.** Although the number of examples is limited, experts suggest that it may be possible to use constitutional law to seek remedies for GBV, both as a violation of fundamental rights and for the state's failure in its due diligence responsibility to prevent the violence and protect the victim.¹²⁸ Four Kenyan civil society organizations and eight victims of SGBV brought a class action lawsuit against six Kenyan government officials for failing to investigate and prosecute the perpetrators of SGBV committed during post-election violence in 2007.¹²⁹ Although almost 40 percent of the rape victims (over 200 people) were able to identify their attackers, there had not been credible investigations or prosecutions as of February 2013. The lawsuit calls for officials to be held accountable and for reparations to be made to all victims. Similarly, under a grant from the USG Global Equality Fund, the law faculty of the University of West Indies Rights Advocacy Project (U-RAP) has analyzed the defenses used in homicide cases involving LGBT persons in the Caribbean Commonwealth and is also using litigation to challenge the constitutionality of criminal law that infringes on the rights of LGBT people in Belize and Guyana.¹³⁰

✓ **International and regional courts.** Legal advocates have successfully used international law in cases brought to the Inter-American Commission on Human Rights, the European Court of Human Rights, and complaints made under the Optional Protocol to CEDAW to put pressure on national governments and to push for further measures to prevent and respond to GBV. Most such cases argue that the state in some way failed to respond to an incident of GBV, often domestic violence specifically. Because international and regional legal mechanisms require the exhaustion of domestic remedies and proceed slowly, strategic litigation is used as a last resort and when the safety of individual victims is no longer a concern.

In 2013, the European Court of Human Rights issued a judgment¹³¹ that the Moldovan authorities had failed to take effective measures to protect the complainant and her children from domestic violence after she had obtained a protective order. The Court found that “the authorities’ failure to deal with the violence had effectively amounted to repeatedly condoning it, which reflected a discriminatory attitude towards [the applicant] as a woman.”¹³² This case is one of several brought on behalf of DV victims that alleges regular failures to enforce protective orders in Moldova.

K. ENGAGING WITH NON-STATE JUSTICE INSTITUTIONS

ROL and justice-centered projects have tended to focus on the formal justice system in isolation from non-state institutions, an approach that fails to recognize that in countries where legal pluralism exists, the various systems interact and influence each other.¹³³ There has also been increasing recognition that the formal system may not always best serve GBV victims. Especially where family members are involved, GBV victims may prefer a restorative justice approach over criminal prosecution.

128. See Nainar, *Manual: Litigation Strategies for Sexual Violence in Africa*.

129. See the Open Society Foundations website, *Coalition on Violence Against Women and Others v. the Attorney-General of Kenya and Others*, last updated February 20, 2013, <http://www.opensocietyfoundations.org/litigation/coalition-violence-against-women-and-others-v-attorney-general-kenya-and-others>. Four officials are also facing trial in the International Criminal Court for orchestrating crimes against humanity during the violence.

130. See Se-shauna Wheatle, “Adjudication in Homicide Cases Involving Lesbian, Gay, Bisexual and Transgendered (LGBT) Persons in the Caribbean Commonwealth” (report produced for the Faculty of Law UWI Rights Advocacy Project [U-RAP], 2013) and U-RAP’s Docket of Cases, accessed March 2014, <http://u-rap.org/index.php/u-rap-s-docket-of-cases>.

131. European Court of Human Rights. *Case of Eremia vs. the Republic of Moldova*, (Strasbourg: European Court of Human Rights, 2013).

132. European Court of Human Rights, *Moldovan Authorities Failed To Prevent A Police Officer From Repeatedly Beating His Wife In Front Of Their Two Daughters*, 2013.

133. Rea Abada Chiongson et al., *The Role of Law and Justice in Achieving Gender Equality*, Background Paper for the World Development Report 2012 (Washington, DC: World Bank, 2011), 8.

At the same time, informal justice systems, such as religious courts, tribal councils, or councils of elders, can be problematic if they are male-dominated, their members are not publicly accountable officials, or they enforce patriarchal and discriminatory attitudes toward women and violence. Still, some non-state justice institutions *could* “be instrumental in enhancing women’s access to justice. ... [as they] may offer women an option that is more readily available – in terms of cost, vicinity, language, shared culture and values—than the formal one.”¹³⁴

When developing ROL projects, the value of working with non-state judicial institutions should be carefully assessed in terms of increasing the protection and remedies they offer victims for each specific form of GBV. Acknowledging traditional, customary, and religious adjudication mechanisms and strengthening them should not preclude GBV victims from accessing the formal justice system.

✓ **Linking state and non-state institutions.** Engagement with stakeholders both within and outside the formal justice system is viewed as an effective approach to combating harmful traditional practices such as FGM/C and early marriage. “[I]nterventions that focus solely on the negative health consequences of FGM/C, or laws that ban FGM/C without any accompanying information, education, and communication, may well have the effect of changing people’s attitudes toward FGM/C, but in ways that are not desirable or conducive to the abandonment of the practice.”¹³⁵ Engagement with the informal justice system to promote understanding of international human rights standards and to harmonize customary or religious law with statutory law is one aspect of collaboration.

When engaging with informal justice systems, it is important to ensure that women are represented among decision makers and mediators. ROL projects can support the development of new non-state mechanisms that are more responsive to the needs of women. For example, an 18-member all female jirga was founded in Pakistan—the first of its kind in the country—to provide women with a forum to resolve disputes. The council, known as the “sisters group,” refers serious cases to local law enforcement or courts and provides legal assistance in district court cases on GBV (two recent cases concerned a fatal acid attack and rape).¹³⁶

✓ **Alternative justice.** There is considerable debate over the effectiveness and appropriateness of using alternatives to the criminal justice system in GBV cases. Alternative approaches are often classified as alternative dispute resolution (ADR), a term that describes a wide variety of mechanisms that “are short of, or alternative to, full-scale court processes.”¹³⁷ ADR can refer to facilitated negotiations, arbitration, conciliation or mediation processes, and even minitrials that are quite similar to formal court processes. ADR processes can be mandatory or voluntary and may produce binding or non-binding decisions, depending on the form they take.

Some experts, including women’s rights organizations, have recommended caution in using ADR to resolve GBV-related incidents, noting that ADR does not work well “in the context of extreme power imbalance between parties.”¹³⁸ There is concern that such mechanisms “might easily prioritize family

134. Chiongson et al., *The Role of Law and Justice in Achieving Gender Equality*, 28.

135. Charlotte Feldman-Jacobs and Sarah Ryniak, *Abandoning Female Genital Mutilation/Cutting: An In-Depth Look at Promising Practices* (Washington, DC: Population Reference Bureau, 2006), 42.

136. Fazal Khaliq, “First Female Jirga Set Up in Pakistan’s Swat Valley,” *UPI*, August 28, 2013,

http://www.upi.com/Top_News/Special/2013/08/28/First-female-jirga-set-up-in-Pakistans-Swat-Valley/41376166963719/.

137. Center for Democracy and Governance/USAID, *Alternative Dispute Resolution Practitioners’ Guide*, (Washington, DC, 1998), 4.

138. *Ibid.*, 20.

unity over women's access to justice."¹³⁹ The appropriateness of using alternative remedies in GBV cases was questioned in 2013 when activists in Nicaragua staged protests over proposed amendments to the 2012 law on VAW. A crucial element of the Comprehensive Law number 779 against Violence against Women was its prohibition on mediation, but this provision was subsequently amended to permit mediation for crimes with penalties of less than five years (which include causing serious bodily harm and threats). Although the country's Supreme Court stated that mediation would be voluntary and could be requested or denied by either party, women's organizations claim that it could expose survivors to further victimization or abuse¹⁴⁰ Indeed, the Nicaraguan VAW law had originally been drafted in light of research that showed that "mediation had repeatedly put women at risk," when violence had taken place or been threatened.¹⁴¹

However, there is evidence that when properly designed to "enhance the power or status of the weaker party, ADR has been effective in conditions of discrimination or power imbalance."¹⁴² In Bangladesh, it was found that women who experienced DV and participated in village mediation programs that include women mediators received "better results than the court system which is even more biased against women in these cases."¹⁴³

Restorative justice is a particular ADR mechanism that favors a more traditional or community-based approach to resolving disputes over adversarial processes. Victim-led restorative justice approaches have been tested in GBV cases in a handful of countries, including in India and South Africa. As is the case with ADR as a whole, many activists are wary of restorative justice and cite fears that such mechanisms might prioritize family unity and reconciliation over women's access to justice. In cases of IPV in particular, perpetrators are often "forgiven" by their victims or the community at large; victims may blame themselves for the violence or its escalation; and perpetrators can manipulate victims' feelings of guilt and remorse at involving the legal system. On the other hand, restorative justice can force the perpetrator to take responsibility for violent acts (in contrast to the adversarial system which encourages defendants to plead not guilty and mount a defense) and can place the victim's needs at the center.

A small-scale evaluation of one restorative justice initiative to address DV, South Africa's victim-offender mediation program, found "a high level of satisfaction with the process among the female victims of domestic violence," and the restorative justice process afforded most women "a unique opportunity to make their voices heard, to tell their story, and to insist on changes in their partners' behavior."¹⁴⁴ Follow-up indicated that those who had been physically abused reported no further assaults by their partners since the mediation. Proper oversight and training are keys to developing an effective restorative justice program.¹⁴⁵ Still, restorative justice is likely to be ineffective in addressing particularly violent crimes, such as sexual violence, or repeat offenses. "Since the results of ADR programs are not

139. Heise, *What Works to Prevent Partner Violence: An Evidence Overview*, 80.

140. Emily Schechter, "Nicaraguan Law Update 'Piles Pressure on Women to Face Abusers'," *The Guardian*, September 27, 2013, <http://www.theguardian.com/global-development/poverty-matters/2013/sep/27/nicaraguan-law-reforms-women-face-abusers>.

141. Amnesty International, "Urgent Action: Women's Rights Under Threat in Nicaragua," 17 September 2013, <http://www.amnestyusa.org/sites/default/files/uaa24913.pdf>

142. USAID Center for Democracy and Governance, *Alternative Dispute Resolution Practitioners' Guide*, 20.

143. *Ibid.*

144. Amanda Dissel and Kindiza Ngubeni, "Giving Women their Voice: Domestic Violence and Restorative Justice in South Africa," (Centre for the Study of Violence and Reconciliation), Paper presented at the 11th International Symposium on Victimology, Stellenbosch, July 2003. <http://www.csvr.org.za/docs/crime/givingwomenvoice.pdf>.

145. Heise, *What Works to Prevent Partner Violence: An Evidence Overview*, 81.

public, ADR programs are not appropriate for cases which ought to result in some form of public sanction or punishment.”¹⁴⁶

In transitional justice contexts, truth and reconciliation commissions have been used to address SGBV (including in Colombia, Liberia, Peru, Rwanda, Sierra Leone, and Timor-Leste). Truth commissions are non-adversarial forums and are seen as more likely to encourage victims, especially female victims, to tell their stories.

VI. MONITORING AND EVALUATION

The USAID Toolkit for Monitoring and Evaluating Gender-Based Violence Interventions along the Relief to Development Continuum, published in 2014 (see Annex E) provides guidance and recommendations for planning and implementing M&E of GBV interventions in periods of pre-crisis, crisis and post-crisis. The following section of this Toolkit, supplements the aforementioned publication, and provides some additional guidance on monitoring and evaluation specific to the ROL context.

The body of evidence about the effectiveness of legal responses to GBV is based primarily on studies conducted in high-income and developed countries, with a focus on formal justice system interventions on intimate partner violence and sexual assault. Such studies present a mixed picture of “success” even within developed and well-functioning justice systems. While legal reform and the introduction of specific remedies and approaches to GBV have given victims greater protection and sent a public message that such violence is not acceptable, definitive evidence that such interventions deter perpetrators, reduce recidivism, or decrease women’s risk for future violence is lacking.¹⁴⁷

There are no studies from middle- or low-income countries that “directly assess the impact that legal reforms have had on overall rates of partner violence, arrest, prosecution or conviction.”¹⁴⁸ The best evidence about interventions related to GBV from low-income countries is from assessments of projects on eliminating FGM/C. There is a critical need to improve the evidence base about program impact from low- and middle-income countries generally, and particularly from fragile states, and concerning such issues as “sexual coercion, rape, honor killings, family violence, child sexual abuse and other forms of child maltreatment.”¹⁴⁹

M&E of GBV activities within USAID ROL projects is essential for improving the effectiveness of projects in their day-to-day implementation and for scaling and sustaining their work. M&E can help implementers in other settings identify and adapt programming to their contexts. Robust M&E can also contribute to the larger evidence base about what works in preventing and responding to GBV in the legal and justice contexts. “The information provided by programs may also be used to feed into a larger M&E system in a country or internationally. Information reported at this level is likely to garner enough attention and support to influence international policy and sustained funding.”¹⁵⁰

A. ETHICAL CONSIDERATIONS

When conducting any kind of research, assessment, or data gathering on GBV, the process should adhere to ethical standards. Data gathering in the ROL context may rely heavily on public records from

146. USAID Center for Democracy and Governance, *Alternative Dispute Resolution Practitioners' Guide*, 20.

147. Heise, *What Works to Prevent Partner Violence: An Evidence Overview*, 74-78.

148. *Ibid.*, 73.

149. *Ibid.*, 82.

150. Bloom, *Violence Against Women and Girls: A Compendium of Monitoring and Evaluation Indicators*, 24.

agencies in the justice chain (for example, number of police reports filed, charges made by the prosecutor's office, and adjudicated cases) to establish prevalence of violence and identify obstacles to accessing justice. Most countries, however, "do not have violence surveillance systems in place, and service statistics in the health, legal and other sectors are of poor quality."¹⁵¹ Even where statistics are collected regularly and are reliable, they still only represent the GBV victims who have approached the formal justice system. In humanitarian emergencies, data are even less available. In order to measure most indicators, "women [or other GBV victims] are asked directly to report their experience with physical and sexual violence."¹⁵²

Thus, M&E processes may require primary research and contact with GBV victims or people at risk for GBV (for example, in order to understand the barriers that prevent them from accessing justice or to obtain an evaluation of their experiences with the justice system). When conducting research with such subjects, the following are minimal ethical considerations. More detailed information about ensuring ethical collection and analysis of data is provided in the resources listed in Annex E.

- ✓ **Ensure safety and minimize risk when asking about GBV.** The safety of both respondents and evaluators/researchers is paramount and should guide planning and conducting research and M&E.
- ✓ **Protect confidentiality and privacy.** Measures should be taken to ensure the safety of respondents and the protection of data, such as by separating survey responses from demographic information and conducting interviews in private or anonymously.
- ✓ **Determine the availability of local care and support services for survivors of GBV.** If no such services exist, research should not be undertaken to avoid inflicting further psychological harm on the survivors.¹⁵³ If such services do exist, evaluators must be prepared to refer anyone who asks for assistance—not only to legal services, but also to medical, counseling, or protection services.
- ✓ **Gain informed consent** of anyone participating in GBV research. If children are involved in the research, special attention should be given to their consent and safety.
- ✓ **Carefully select members of research and evaluation teams and provide specialized training.** Evaluators should be trained in ethical considerations regarding GBV, how to phrase questions about GBV sensitively but accurately, how to recognize respondents' distress, and how to respond appropriately.
- ✓ **Collect primary data only if results will be used to improve programming or advance policy.** Primary data collection should only be undertaken when the use of the results is clearly understood. For preliminary analysis, other data sources should be identified. "[T]he potential benefits to the respondents or targeted communities must be greater than the risks involved to them."¹⁵⁴

151. Ibid., 20.

152. Ibid., 19.

153. The WHO recommends that where there are few local support services "it may be necessary for the study to create short-term support mechanisms." WHO, Department of Gender and Women's Health, *Putting Women First: Ethical and Safety Recommendations for Research on Domestic Violence Against Women* (Geneva: WHO, 2001), 11.

154. Bloom, *Violence Against Women and Girls: A Compendium of Monitoring and Evaluation Indicators*, 20-21.

B. STANDARD FOREIGN ASSISTANCE INDICATORS

USAID and the U.S. Department of State use a joint set of standard foreign assistance indicators to measure outputs that are directly attributable to USG programs, projects, and activities as well as outcomes and impacts to which the U.S. Government contributes.¹⁵⁵ Performance information is collected against this set of standard indicators and annually reported in the Performance Plan and Report. USAID Operating Units (OUs) may select an adequate and reasonable number of indicators that reflect programming results and OUs are encouraged to use the standard indicators alongside custom indicators where they are useful.¹⁵⁶

The standard indicators that measure performance related to gender are considered crosscutting, and the Master Indicator List includes three that refer specifically to GBV, among others on gender equality and female empowerment.

Table 2. USAID Indicators related to GBV

Indicator Number	Indicator
GNDR-5	Number of laws, policies, or procedures drafted, proposed, or adopted with USG assistance designed to improve prevention of or response to SGBV at the regional, national, or local level.
GNDR-6	Number of people reached by a USG-funded intervention providing GBV services (e.g., health, legal, psycho-social counseling, shelters, hotlines, other).
GNDR-7	Percentage of target population that views GBV as less acceptable after participating in or being exposed to USG programming.

In addition to the above indicators on GBV, standard indicators on peace and security, ROL, human rights, and the justice system may also be used to reflect results of activities on GBV.¹⁵⁷ For example, the standard indicator on the “number of individuals/groups from low income or marginalized communities who received legal aid or victim’s assistance with USG support” (Standard Indicator 2.1.1-5) could be defined by and measured through a sector-specific indicator on the provision of legal aid to GBV victims under a ROL program. An expanded list of standard and custom foreign assistance indicators that are particularly relevant to addressing GBV through ROL projects is included in Annex C to this Toolkit.

The standard foreign assistance indicators are deliberately written in a broad manner so that they can be applied to activities in the various sectors in which USAID carries out programming. The standard indicators should be combined with customized indicators for specific projects in order to measure any progress more effectively. The following section provides information on the development of custom indicators on GBV that are specific to the justice and security sectors.

155. Download the list at the U.S. Department of State website, “Standard Foreign Assistance Indicators,” accessed March 2014, <http://www.state.gov/ff/indicators/>.

156. ADS 203.3.7.

157. U.S. Department of State, “Foreign Assistance Standardized Program Structure and Definitions,” accessed March 2014, <http://www.state.gov/documents/organization/141836.pdf>.

C. DEVELOPING GBV INDICATORS IN THE JUSTICE AND SECURITY SECTORS

General guidance on developing a Logical Framework for GBV M&E as well as the GBV indicators themselves is relevant to the justice context.¹⁵⁸ Such guidance should simply be applied to projects in the ROL sector. For instance, it is important that output indicators (for example, the number of prosecutors receiving training about a new law) are accompanied by outcome and impact indicators (for example, the number of decisions by an informal justice mechanism that have utilized international human rights standards, or the level of reduction in the prevalence of a specific form of GBV in a particular target group). Establishing baseline data is the starting point for any indicator, but such data are often lacking in the justice context where record-keeping may be weak or incidents of GBV not reported to the formal legal system.. Furthermore, even when quantitative data, such as crime statistics, are readily available, qualitative data sources, such as surveys of the perceptions of specific actors about how the legal system functions in GBV cases, should also be used, and will need to be planned.. It is a general good practice to consult with community stakeholders when developing indicators. In the ROL context, it is especially valuable to not only work with legal professionals but also to ask women, or other people at risk for specific forms of GBV, to provide input and verify that indicators are meaningful. Such stakeholders will often be able to identify additional or unconventional measures of change (for instance, indicators applicable to non-state justice institutions) and challenge project indicators as unsuitable or unhelpful.¹⁵⁹

Although this Toolkit focuses on the justice and security sectors, indicators that apply to humanitarian emergencies, especially sexual violence are needed. It is also important to ensure that indicators address all relevant forms of GBV, including harmful traditional practices, human trafficking, and violence against LGBT persons. Specific sets of indicators can be developed to measure outcomes relevant to engaging men. Annex C to this Toolkit includes a list of sample GBV indicators, categorized by area of ROL programming. Additional guidance on defining indicators for GBV can also be found in the resources listed in Annex E.

VII. RECOMMENDED APPROACHES AND PRIORITIES FOR FUTURE PROGRAMMING

The following *recommended approaches* summarize the principles that are described in this Toolkit. Together, they can be considered a framework to guide project design.¹⁶⁰

- Identify the most critical forms of GBV in the programming context and the precise barriers to accessing justice that victims face.
- Base activities and interventions on internationally recognized human rights principles.
- Follow a victim-centered approach that prioritizes the safety of GBV survivors through developing appropriate legal remedies and guarantees of comprehensive services.

158. See, for example, Chapter 2 of the Toolkit for Monitoring and Evaluating Gender-Based Violence Interventions along the Relief to Development Continuum (Washington DC: USAID, 2014).

159. Department for International Development (DFID), *Guidance on Monitoring and Evaluation for Programming on Violence Against Women and Girls: Guidance Note 3* (London, 2012), 20.

160. The Virtual Knowledge Centre to End Violence Against Women and Girls also describes guiding principles and strategies for justice sector reform: <http://www.endvawnow.org/en/modules/view/7-justice.html>.

- Consider the diversity of GBV survivors and adapt approaches to female victims (women and girls), male victims (men and boys), as well as specific populations, including PWD and LGBT individuals.
- Encourage holistic reform by coordinating with and enhancing GBV interventions across sectors.
- Devote greater attention to ending impunity for perpetrators of violence.
- Take an evidence-based approach and conduct M&E to inform project design and implementation.

The *sectoral priorities* that follow reflect the entry points described in this report and are meant as a springboard for designing activities that can fit within varied ROL projects.

Research and Data Collection

- **USAID DRG and ROL assessments.** Include the topic of GBV in discussions of the development problem, human rights, ROL, and effectiveness of key institutions.
- **Modernization and reform of justice administration.** Projects on strengthening administration and management could include improving recordkeeping and the collection of sex-disaggregated statistics in order to expand the knowledge base on GBV.
- **Baseline research.** Implementing partners of ROL projects could conduct baseline research or needs assessments on the topic of GBV that identify gaps in the justice chain. Such assessments will allow projects to be targeted and responsive, and they can be used for M&E.

Legislative Reform

- **Ratification of international/regional conventions.** Support legal advocacy and campaigning around the ratification of key instruments on GBV.
- **Legal drafting.** Support the development of stand-alone laws on GBV or specific forms of GBV as well as the drafting of supporting legislation, such as equal rights laws, laws on victim/witness protection, laws on free legal assistance, etc.
- **Legal reform and amendment.** Support the revision of existing laws to make them more gender-sensitive and responsive to GBV, such as by the introduction of civil remedies, repeal of discriminatory laws, and harmonization of domestic legislation with international standards.

Procedural Reform

- **Structural reform.** Assist in the creation of specialized structures in the justice system to respond to GBV, especially within police units, prosecutors' offices, and the judiciary. Technologies (such as video-linked testimony or court-issued panic buttons) can also be introduced to existing structures to make them more effective in GBV cases.
- **Policy reform.** Support the development of policies and processes that outline the steps to be taken by law enforcement and justice system actors in GBV cases. Consider innovative solutions that can be included in existing processes.

- **Perpetrator programs.** In legal drafting projects on GBV, ensure that perpetrator programs are mandatory, separate from criminal punishment, and monitored.

Capacity Building and Support for Legal Professionals

- **Engaging men.** Identify males within the justice system who can serve as allies for initiatives to prevent and respond to GBV and develop specific methods for engaging them throughout project implementation.
- **Training and exchange programs.** Use training programs to introduce police, prosecutors, judges, and lawyers as well as other professionals to regional and international good practices for addressing GBV. It is useful to include professional exchange activities, between and among legal professionals, in such projects.
- **Women's legal organizations.** Build the capacity of women's legal organizations, both professional associations and NGOs, to carry out activities on GBV, which could include training, development of tools and manuals, or advocacy.
- **Addressing the needs of male survivors.** Sensitization of law enforcement and legal professions to the specific needs and experiences of male GBV victims should be integrated into general capacity-building activities on GBV.

Legal Tools and Resources

- **New legal tools on GBV.** Create handbooks, manuals, benchbooks, and case law compilations that provide guidance on how to respond to GBV cases. Engage with relevant legal sector actors when developing such materials to encourage them to take ownership of the project.
- **Integration of GBV considerations.** Include the topic of GBV in more general legal handbooks and tools intended to strengthen court administration and case management practices.

Legal Assistance and Pro Bono Programs

- **Legal aid centers.** Improve the capacity of existing legal services centers, NGOs, community organizations, etc. to provide free legal services on GBV and related issues (e.g., divorce and custody issues) to underserved populations, especially women. Ensure that proper case management processes are followed.
- **Paralegal networks.** Expand networks of paralegals who have specific expertise in GBV cases who can provide information and assistance to GBV victims at the community level and make referrals to legal aid lawyers, police, or prosecutors.
- **Human rights and advocacy organizations.** Work with human rights organizations (for instance, DPOs and organizations that advocate for the rights of LGBT persons) to increase their capacity to provide legal assistance to GBV victims among their constituents.

Legal Education

- **Continuing legal education.** Partner with local bar associations to provide continuing legal education on GBV. In addition, include the topics of gender equality and GBV within more general legal education courses.
- **Law school curricula development.** Improve the capacity of law schools and law departments to teach the topic of GBV and to integrate the topics of gender equality and GBV into law school curricula, especially in courses on human rights, family law, and criminal law.
- **Clinical legal education.** Develop clinical education programs in law schools that address particular legal aspects of GBV cases, for example helping victims apply for protection orders in domestic violence/divorce cases.

Legal Literacy and Awareness Raising

- **Legal literacy for at-risk groups.** Support the work of legal associations, support centers for GBV victims, and NGOs to improve the legal literacy of at-risk populations (in terms of understanding their rights and how to access the justice system).
- **Awareness-raising campaigns.** Develop campaigns to improve societal awareness of legal prohibitions on GBV, particularly when new legislation has been adopted or when related to harmful traditional practices.
- **Targeted perpetrator-oriented campaigns.** Encourage justice system institutions to run campaigns directed toward potential perpetrators of violence to educate them about the consequences, and legal sanctions, for committing GBV.

Addressing Corruption and Bias in the Justice System

- **Investigation of misconduct.** Support the creation of codes of conduct on handling GBV cases and build the capacity of the appropriate agencies to investigate cases of misconduct relevant to GBV.
- **Monitoring and watchdog activities.** Build the capacity of legal associations and NGOs to develop and implement monitoring programs on the implementation of GBV laws. Support NGOs and other organizations to carry out monitoring and report abuses within the justice system in GBV cases. Such activities should be included in anti-corruption projects.

Reparations and Strategic Litigation

- **Reparations.** Within training programs for legal professionals and legal aid lawyers, include the topic of reparations and provide support for bringing civil claims on behalf of GBV victims.
- **Strategic litigation in domestic courts.** Support legal associations and NGOs to conduct strategic litigation, such as bringing constitutional claims and class action suits, for cases of widespread violations and state failure to act.

- **Using international and regional legal mechanisms.** Build the capacity of legal associations and NGOs to submit applications to international and regional forums and undertake litigation in GBV cases.

Informal Justice Sector

- **Engagement with informal justice mechanisms.** In parallel with projects to strengthen the formal justice system response to GBV, conduct activities with informal justice mechanisms to improve the ability of stakeholders (elders, tribal leaders, etc.) to uphold and implement statutory law.
- **Development of restorative justice systems.** Identify areas where restorative justice may be appropriate in GBV cases and invest in strengthening mediation and ADR mechanisms that are gender-sensitive and include women as decision makers or mediators.

VIII. CONCLUSION

Given USAID's commitment to develop innovative projects and activities to prevent and respond to GBV, ROL programming is essential. While medical, psychological and economic support are also vital to enabling survivors to recover from violence, the justice system can play a leading role in coordinating efforts to end GBV. Justice sector actors are important figures of authority and they can send powerful messages when they enact and enforce laws, fully investigate incidents of GBV, apply the law without discrimination and hand down commensurate sentences to perpetrators. Advancing the rule of law is one means by which states can fulfil human rights obligations to protect citizens from violence. Strengthening the justice chain for victims of GBV can ultimately lead to broader justice reform to the benefit of all.

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ANNEX A: GLOSSARY OF KEY TERMS

Some terms used in this Toolkit are defined in USG policy documents, but USAID also uses commonly accepted meanings. Legal definitions of specific forms of GBV often differ from medical and social definitions, and they also vary by source of law and country. Here, when terms have not been defined in USG policy, general meanings are provided, and where possible, definitions from international conventions are cited (many of which are broader than national law definitions).

Child sexual abuse includes the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of children in prostitution or other unlawful sexual practices; and the exploitative use of children in pornographic performances and materials.¹⁶¹

Domestic violence means all acts of physical, sexual, psychological, or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.¹⁶²

Dowry-related violence is any act, including murder, rape, battery, harassment, and other forms of physical abuse, as well as psychological abuse, associated with the giving or receiving of a dowry at any time before, during, or after the marriage.¹⁶³

Early marriage is a formal marriage or informal union before age 18.¹⁶⁴

Elder abuse is a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, that causes harm or distress to an older person. It can take various forms such as physical, psychological, emotional, sexual, or financial abuse. It can also be the result of intentional or unintentional neglect.¹⁶⁵

Female genital mutilation/cutting (FGM/C) refers to all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for nonmedical reasons.¹⁶⁶

Female infanticide is the intentional killing of baby girls due to a preference for male babies and the low value associated with the birth of females.¹⁶⁷

Femicide is the gender-based murder of a woman or systematic killing of women “because they are women.” Femicide differs from the murder of women in that it is often accompanied by sexual abuse

161. UN, Convention on the Rights of the Child (1990).

162. Council of Europe, Convention on Preventing and Combating Violence Against Women and Domestic Violence (not yet entered into force).

163. UN Women, Virtual Knowledge Centre to End Violence Against Women and Girls, “Glossary of Terms from Programming Essentials and Monitoring and Evaluation Sections,” accessed March 2014, <http://www.endvawnow.org/en/articles/347-glossary-of-terms-from-programming-essentials-and-monitoring-and-evaluation-sections.html>.

164. USAID, *Ending Child Marriage and Meeting the Needs of Married Children: The USAID Vision for Action* (Washington, DC, 2012).

165. UN Women, “Glossary of Terms from Programming Essentials and Monitoring and Evaluation Sections.”

166. Ibid.

167. Ibid.

and other forms of physical aggression, such as domestic violence, dowry disputes, or issues of “honor.”¹⁶⁸

Forced marriage is a marriage lacking the free and valid consent of at least one of the parties. In its most extreme form, forced marriage can involve threatening behavior, abduction, imprisonment, physical violence, rape, and, in some cases, murder; an arranged marriage officiated without the consent of the interested parties.¹⁶⁹

Gender-based violence (GBV) is violence that is directed at an individual based on his or her biological sex, gender identity, or perceived adherence to socially defined norms of masculinity and femininity. It includes physical, sexual, and psychological abuse; threats; coercion; arbitrary deprivation of liberty; and economic deprivation, whether occurring in public or private life.¹⁷⁰

Harmful practices (also referred to as “harmful cultural or traditional practices”) is a term for various practices that have no therapeutic purpose but are based on tradition, culture, religion, or superstition and that are considered to have harmful consequences to the health and rights of the victims.¹⁷¹

“Honor” killings/crimes refers to crimes that are mitigated by a legal defense that is based on concepts of honor. Honor crimes include maiming or murdering a woman or girl as punishment for acts considered inappropriate for her gender that are believed to bring shame on the family or community (e.g., pouring acid on a young woman’s face as punishment for bringing shame to the family for attempting to marry someone not chosen by the family), or to preserve the honor of the family (i.e., as a redemption for an offense committed by a male member of the family).¹⁷²

Intimate partner violence refers to a pattern of assaultive and coercive behaviors, including physical, sexual, and psychological attacks, as well as economic coercion, that adults or adolescents use against their intimate partners.¹⁷³ It is more limited than domestic violence but also encompasses dating violence and exists in same-sex partnerships.

Lesbian, gay, bisexual, and transgender (LGBT). USAID uses the acronym LGBT, but the Agency also recognizes that there are many other variations of this acronym used in different contexts, including, for example LGBTI, which adds a reference to intersex people; LBGTIQ which adds reference to queer and questioning; and, LGBTIQQA which adds reference to asexuals and allies.¹⁷⁴

Rape occurs when the perpetrator invades the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or the perpetrator with a sexual organ or of the

168. UN General Assembly, *In-Depth Study on All Forms of Violence in Women: Report of the Secretary-General, A/61/122/Add 1* (July 6, 2006), para. 84. Note the Inter-American Commission on Human Rights adopted this term in 2007, referring to the murder of women in Latin America.

169. UN Women, “Glossary of Terms from Programming Essentials and Monitoring and Evaluation Sections.”

170. U.S. Department of State and USAID, *United States Strategy to Prevent and Respond to Gender-Based Violence Globally*.

171. UN Department of Economic and Social Affairs, Division for the Advancement of Women, *Supplement to the Handbook for Legislation on Violence Against Women: Harmful Practices Against Women*. Note the Protocol to the African Charter on Human and Peoples’ Rights, on the Rights of Women in Africa, defines “harmful practices” as “all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity.”

172. UN High Commissioner for Refugees, *Sexual and Gender-Based Violence Against Refugees, Returnees and Displaced Persons: Guidelines for Prevention and Response* (Geneva, 2003).

173. UN Women, “Glossary of Terms from Programming Essentials and Monitoring and Evaluation Sections.”

174 USAID, *LGBT Vision for Action Promoting and Supporting the Inclusion of Lesbian, Gay, Bisexual, and Transgender Individuals* (Washington DC: USAID, 2014).

anal or genital opening of the victim with any object or any other part of the body *and* when the invasion was committed by force, or by the threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, against such person or another person, or by taking advantage of a coercive environment or the invasion was committed against a person incapable of giving genuine consent.¹⁷⁵

Rule of Law is a principle of governance by which all members and institutions of a society (including the state itself) are accountable to the law — in particular, laws that adhere to international norms of human rights, that are openly made by democratically elected representatives, that are fairly and equally enforced by the executive, and that are independently adjudicated by the courts.¹⁷⁶

Sex selection refers to the decision to keep a fetus until term or to abort it depending upon its sex.¹⁷⁷

Sexual and gender-based violence (SGBV) is a term that encompasses a wide variety of abuses, including rape, sexual threats, exploitation, humiliation, assault, molestation, domestic violence, incest, involuntary prostitution (sexual bartering), torture, unwanted or noxious insertion of objects into genital openings, and attempted rape. FGM and other traditional practices (including premature marriage, which increases maternal morbidity and mortality) may also be considered to be forms of SGBV.¹⁷⁸

Sexual violence occurs when the perpetrator commits an act of a sexual nature against one or more persons or causes such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.¹⁷⁹

Trafficking in persons (TIP) is an international crime involving the acquisition of a human being through the use of force, fraud, or coercion for the purpose of exploiting the individual for profit through forced labor or prostitution.¹⁸⁰

Note that USAID also uses the expanded definition of trafficking in person from the Palermo Protocol: the recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs.¹⁸¹

Violence against women (VAW) is any act of GBV that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life.¹⁸²

175. Rome Statute for the International Criminal Court (1998).

176. USAID, *USAID Strategy on Democracy, Human Rights and Governance* (Washington, DC: USAID, 2013).

177. UN Women, "Glossary of Terms from Programming Essentials and Monitoring and Evaluation Sections."

178. *Ibid.*

179. Rome Statute for the International Criminal Court (1998).

180. USAID, *Counter-Trafficking in Persons Policy* (Washington, DC: USAID, 2012).

181. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* to the United Nations Convention against Transnational Organized Crime (2000).

182. *Declaration on the Elimination of Violence against Women*, UN General Assembly, 1993.

ANNEX B: INTERNATIONAL AND REGIONAL INSTRUMENTS ON GBV

The following list of major international and regional instruments comprises both hard law (legally binding instruments) and soft law (nonbinding declarations, resolutions, strategic plans, etc.) that together are the standards for preventing and responding to GBV.

International (United Nations) Instruments

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979)
 - General Recommendation 19 on violence against women (1992)
 - Option Protocol to CEDAW (1999)
- Convention on the Rights of the Child (1989)
 - General Comment No. 13 on the right of the child to freedom from all forms of violence (2011)
- Declaration on the Elimination of Violence against Women (1993)
- Beijing Declaration and Platform for Action (1995)
- Rome Statute of the International Criminal Court (1998)
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (the Palermo Protocol) (2000)
- Convention on the Rights of People with Disabilities (2006)
- UN Security Council Resolutions on women, peace, and security:
 - SRES 1325 (2000)
 - SRES 1820 (2008)
 - SRES 1888 (2009)
 - SRES 2106 (2013)

Regional Instruments

Africa

- African Commission on Human and Peoples' Rights
 - <http://www.achpr.org/instruments/>
 - African Charter on the Rights and Welfare of the Child (1990)
 - Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)
 - Declaration on Gender Equality in Africa (2004)
- Southern African Development Community
 - <http://www.sadc.int/issues/gender/gender-based-violence/>

GBV and ROL Toolkit

- Declaration on Gender and Development (1997)
Addendum on the Prevention and Eradication of Violence Against Women and Children (1998)
- Protocol on Gender and Development (2008)

The Americas

- Organization of American States
<http://www.oas.org/dil/treaties.htm>
 - Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (the Convention of Belém do Pará) (1994)
 - Inter-American Convention Against All Forms of Discrimination and Intolerance (2013)

Asia

- Association of Southeast Asian Nations (ASEAN)
<http://aichr.org/documents/>
 - Declaration on the Elimination of Violence against Women in the ASEAN Region (2004)

Commonwealth of Independent States (CIS)

Note: the Interparliamentary Assembly of Member States of the CIS has adopted several recommendations and model laws on combating TIP and providing victim assistance. The purpose of such recommendations is to standardize and harmonize the legal approach to TIP across the CIS region.

Europe

- Council of Europe
http://www.coe.int/t/dghl/standardsetting/convention-violence/default_en.asp
 - Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence (2002)
 - Convention on Action against Trafficking in Human Beings (2005)
 - Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, adopted by the Committee of Ministers (2010)
 - Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention) (2014)

ANNEX C: SAMPLE INDICATORS ON GBV

(I) Sample Standard Foreign Assistance Indicators

The following are selected standard foreign assistance indicators that are relevant to measuring results of GBV activities in ROL projects, excerpted from the Standard Foreign Assistance Master Indicator List (August 2013).

	1.3 Stabilization Operations and Security Sector Reform
1.3-9	Number of training and capacity-building activities conducted with USG assistance that are designed to promote the participation of women or the integration of gender perspectives in security sector institutions or activities.
	1.5.3 Trafficking in Persons and Migrant Smuggling
1.5.3-19	Number of anti-TIP policies, laws, or international agreements strengthened and/or created with USG assistance.
1.5.3-21	Comparison of total number of prosecutions to total number of prosecutors trained and/or mentored in TIP.
	2.1 Rule of Law and Human Rights
	2.1.1 Constitutions, Laws, and Legal Systems
2.1.1-5	Number of laws or constitutional amendments that protect fundamental freedoms and are consistent with international human rights standards adopted with USG support.
	2.1.3 Justice System
2.1.3-16	Number of individuals/groups from low-income or marginalized communities who received legal aid or victim's assistance with USG support.
2.1.4-3	2.1.4. Human Rights
	Number of domestic NGOs engaged in monitoring or advocacy work on human rights receiving USG support.
	Gender-Based Violence
GNDR-5	Number of laws, policies or procedures drafted, proposed, or adopted with USG assistance designed to improve prevention of or response to SGBV at the regional, national, or local level.
GNDR-6	Number of people reached by a USG-funded intervention providing GBV services (e.g., health, legal, psycho-social counseling, shelters, hotlines, other).
GNDR-7	Percentage of target population that views GBV as less acceptable after participating in or being exposed to USG programming.

(2) Illustrative Performance Indicators on GBV

Some possible project-level indicators, applicable to the programming areas that are discussed in the Toolkit, are provided below. These indicators are phrased in a general way because they are suggestions about the types of measures that could be used with a ROL project. The indicators should be adapted to refer as specifically as possible to the form/s of GBV being addressed, the particular vulnerable group, the context (whether an emergency setting, for example), the planned interventions, and expected outcomes.

Programmatic Area	Sample Indicators (output, outcome)
Legislative drafting <i>* corresponds to GNDR-5</i>	<ul style="list-style-type: none"> • Number of laws on the prevention of and response to GBV drafted or adopted that are consistent with international human rights standards. • Number of legal amendments that increase protection for GBV victims and/or repeal discriminatory provisions in the law. • Number of criminal and civil remedies that increase protection for GBV victims (e.g., protection orders; victim/witness protection; legal assistance guarantees; reparations). • Percentage of communities/regions/jurisdictions with action plans for the implementation of GBV legislation. • Ratio of male to female activists lobbying for legal change relevant to preventing and responding to GBV, in government, parliament, human rights organizations, advocacy campaigns, etc.
Procedural reform <i>* corresponds to GNDR-5</i>	<ul style="list-style-type: none"> • Number of written procedures on GBV that take a victim-centered approach. <ul style="list-style-type: none"> ○ Number of protocols/guidelines/regulations/codes of conduct/strategies/etc. adopted by law enforcement, military/peacekeeping, and justice agencies to strengthen procedures to prevent and punish GBV. ○ Number of child-friendly policies and procedures on GBV. ○ Existence of a referral mechanism that coordinates a multisector response, including the legal response, to GBV (could be specific to a form of GBV—domestic violence, TIP—or setting, such as humanitarian emergency). ○ Percentage of forensic examiners using standardized crime kits in sexual violence cases. • Number of specialized institutions on preventing and responding to GBV. <ul style="list-style-type: none"> ○ Percentage of law enforcement agencies with specialized police units for GBV and/or sexual assault response teams. ○ Number of female police officers/peacekeepers as a proportion of the total number of police and security forces. ○ Percentage of jurisdictions operating specialized courts for hearing GBV cases (e.g., fast-track courts, mobile courts). • Number of anti-GBV programs available for perpetrators, disaggregated by type (e.g., court-mandated, NGO-operated, faith-based, therapeutic, etc.).
Capacity	<ul style="list-style-type: none"> • GBV training curricula for relevant law enforcement and legal

<p>building/sensitization of law enforcement and criminal justice professionals</p>	<p>professionals developed in consultation with organizations that represent the interests of GBV survivors.</p> <ul style="list-style-type: none"> • Number of law enforcement and legal professionals (disaggregated by sex and occupation—e.g., police, forensic expert, prosecutor, judge, ministry of justice staff, attorney, military, peacekeeper, border guard) completing GBV training programs. • Number of people trained under USAID-supported projects reporting that they use new regulations, laws, etc. post training.
<p>Legal resource development</p>	<ul style="list-style-type: none"> • Number of resources, such as benchbooks, case law compilations, manuals, etc., on how to address GBV cases distributed to relevant stakeholders (i.e., police, judges, legal aid lawyers). • Percentage of institutions or agencies that have formally adopted resources for improving the prevention of and response to GBV.
<p>Legal education</p>	<ul style="list-style-type: none"> • Number of legal courses or curricula focusing on GBV developed and/or delivered with USG assistance. • Number of law schools with clinical education programs that provide assistance to GBV survivors. • Number of training/continuing legal education courses focusing on GBV developed and/or delivered to bar association members.
<p>Legal assistance * <i>corresponds to GNDR-6</i></p>	<ul style="list-style-type: none"> • Number of legal aid organizations offering assistance to GBV survivors, (disaggregated by type of organization—e.g., ministry of justice-based, NGO-based). • Number of legal aid providers that have adopted standardized guidelines on addressing GBV cases. • Number of cases, disaggregated by form of GBV and type of assistance (e.g., legal counseling, drafting legal documents, accompaniment and/or representation in court) handled by USAID-supported legal aid services. • Ratio of female to male GBV victims who use legal aid services. • Number of GBV victims from vulnerable populations (e.g., PWD, LGBT persons, ethnic minorities, etc.) using legal services. • Number of DPOs and/or LGBT organizations trained to provide legal or paralegal services to GBV survivors.
<p>Awareness raising</p>	<ul style="list-style-type: none"> • Number of awareness campaigns on how the law addresses GBV generally and/or specific forms of GBV. • Number of people reached by anti-GBV campaigns, disaggregated by geographic location, sex, age, etc. • Ratio of males to females who take part in community-based advocacy campaigns. • Proportion of individuals who are aware of their rights under the law regarding GBV, disaggregated by sex.

	<ul style="list-style-type: none"> • Proportion of individuals who know any of the legal sanctions against GBV. • Change in understanding of the law on GBV and knowledge of available victims services among the target population.
Reducing corruption	<ul style="list-style-type: none"> • Number of domestic NGOs engaged in monitoring or watchdog work relevant to GBV cases receiving USG support. • Number of cases of misconduct by law enforcement or criminal justice agencies in handling GBV cases investigated by relevant bodies (e.g., ombudsman’s office, attorney general, ministry of justice).
Strategic litigation	<ul style="list-style-type: none"> • Number of legal organizations (e.g., legal aid organizations, human rights organizations, ombudsman offices, law firms, bar associations, etc.) engaged in lawsuits alleging state inaction in GBV cases. • Number and percentage of applications that advocacy NGOs present to international/regional human rights forums that concern GBV.
Informal justice sector	<ul style="list-style-type: none"> • Number of decisions on GBV taken by informal/traditional justice mechanisms that rely on international standards. • Number of mediators/elders/local leaders completing sensitization and training programs on GBV, disaggregated by sex. • Number of women trained in mediation techniques relevant to GBV. • Proportion of non-state justice institutions that include female decision makers. • Ratio of women to men utilizing informal justice mechanisms. • Number of alternative forums for addressing GBV (e.g., women’s councils).
Objectives	Sample Indicators (impact)
Access to justice	<ul style="list-style-type: none"> • Change in the percentage of GBV crimes reported, brought to trial, and brought to resolution and/or sentenced [should be further disaggregated by agency—i.e., police, prosecutor, judiciary. See below.] • Percentage and number of victims who have started a criminal legal process related to GBV, disaggregated by means of accessing the justice system—i.e., police station, women’s/crisis center, legal aid provider, hotline, medical center, private lawyer, etc. • The proportion of sexual violence cases in an emergency area for which legal action has been taken.
Effectiveness of key justice institutions: police, prosecutors, judiciary	<ul style="list-style-type: none"> • Number of GBV complaints reported to the police. • Proportion of GBV cases investigated by the police. • Average number of reports to the police per victim. • Percentage of victims (or legal representatives, relatives, public

	<p>prosecutors, judges/magistrates) who have applied for protection measures against the aggressor (out of the number of victims who report GBV).</p> <ul style="list-style-type: none"> • Number of GBV cases filed in court as a proportion of the number of GBV cases reported to police. • Proportion of GBV cases dropped during investigation, disaggregated by reason—i.e., insufficient evidence, victim withdraws complaint/lack of cooperation, reconciliation, death of the victim. • Number of months elapsed between the beginning of a legal process and resolution of a court case.
<p>Reduce impunity</p>	<ul style="list-style-type: none"> • Percentage of violated protection orders out of the total number of orders issued. • Rate of recidivism among population for which protective orders were obtained (i.e., number of perpetrators who have had more than one protective order issued against them). • Proportion of prosecuted GBV cases that resulted in a conviction. • Proportion of reported sexual exploitation and abuse incidents in the emergency area that resulted in prosecution and/or termination of humanitarian staff. • Percentage of victims receiving reparations out of total civil claims.
<p>Citizen trust in the justice system</p>	<ul style="list-style-type: none"> • Percentage of individual victims of GBV, disaggregated by sex, who reported the GBV incident to the police within the last 12 months. • Percentage of victims who, despite of having a protection order, perceive themselves, their children, or other family members, as unprotected and unsafe. • Percentage of GBV victims who feel that the justice system is not working properly to improve their situation, disaggregated by sex, ethnicity, age, etc. • Ratio of the percentage of female and male respondents to public surveys who say they trust the police/prosecutors/courts to respond to GBV cases.

ANNEX D: USAID CASE STUDIES

The following case studies represent varied approaches to addressing GBV within a ROL framework. While these programs and projects are described in isolation, in fact, they were designed to continue work carried out under previous programs or to complement the projects of other USAID implementers and donor organizations. The case studies are based primarily on personal communication with USAID staff and implementers with some reference to secondary materials.

Afghanistan: Rule of Law Stabilization Program (2010–2014)—Informal Justice Component¹⁸³

Form/s of GBV: Program activities focused on women’s rights in marriage and the family and on mitigating harmful traditional practices (namely, forced marriage/baad—a practice of giving away a girl or woman in marriage as a means of resolving interfamily or intertribal disputes by restoring honor¹⁸⁴) and domestic violence.

Context: Afghan law protects women’s rights (e.g., the Law on the Elimination of Violence Against Women (EVAW) was adopted in 2009, and VAW and harmful traditional practices are inconsistent with Sharia law), yet GBV remains endemic in Afghanistan. According to a nation-wide survey, 87 percent of female respondents have been subjected to some form of violence,¹⁸⁵ and the problems of forced and child marriage are especially acute in rural areas.¹⁸⁶ The criminal justice system is often unable and unwilling to investigate and prosecute GBV cases, security forces are inadequate, especially in rural areas, and political will is lacking, all of which “reinforce a culture of impunity.”¹⁸⁷ In fact, it is not uncommon for women fleeing domestic violence to be prosecuted for running away from home (the crime of intention to commit adultery) and the perpetrator to remain unpunished.

Assessing women’s access to justice is complicated by the fact that “traditional” or “informal” justice is the de facto justice system for most Afghans and the preferable method for resolving legal disputes.¹⁸⁸ Women are often reluctant to report incidents of GBV. Domestic violence and family-related disputes are usually addressed through the extended family, and only if they cannot be resolved might they be referred to tribal or informal justice institutions. The formal justice system is used only as a last resort.

ROL projects that include activities on GBV have largely resisted working with the informal justice sector as it is seen to perpetuate gender-based discrimination. Indeed, harmful traditional practices “are often reinforced by religious misconception, [and] community and family perceptions of the role of women.”¹⁸⁹ Informal dispute resolution mechanisms can be an effective means of reconciling disputing

183. Checchi and Company Consulting, implemented the informal component of the Rule of Law Stabilization Program, working with Afghan NGOs in some regions.

184. Forced marriage in Afghanistan encompasses baad, exchange marriages, child marriage, and coercion of widows to marry. UN Assistance Mission in Afghanistan and the Office of the UN High Commissioner for Human Rights, *Harmful Traditional Practices and Implementation of the Law on Elimination of Violence against Women in Afghanistan* (Kabul, Afghanistan, 2010), 6, 11.

185. Diya Nijhowne and Lauryn Oates, *Living with Violence: A National Report on Domestic Abuse in Afghanistan* (Washington, DC: Global Rights: Partners for Justice, 2008), 1.

186. Rima Das Pradhan and Pauline Tweedie, *Legal Empowerment and Access of Women to Justice Assessment* (Washington, DC: Checchi and Company Consulting, 2008), 60.

187. UN Assistance Mission in Afghanistan, *Still a Long Way to Go: Implementation of the Law on the Elimination of Violence Against Women in Afghanistan* (Kabul, Afghanistan, 2012), 8.

188. In Afghanistan, these terms describe a “cluster or norms and practices” that are outside of the formal justice system and can include customary law, local customs, understanding of Islamic legal traditions, and some codified law. See Checchi and Company Consulting, *Field Study of Informal and Customary Justice in Afghanistan and Recommendations on Improving Access to Justice and Relations Between Formal Courts and Informal Bodies* (Washington, DC, 2005), 4.

189. *Harmful Traditional Practices and Implementation of the Law on Elimination of Violence against Women in Afghanistan*, 1.

parties, but they are also “extremely problematic in [their] relationship to condoning and perpetuating domestic abuse.”¹⁹⁰ Decisions made by elders using traditional dispute resolution (TDR) would rarely include sanctions available under the EVAW law or the Penal Code, and the practice of baad (itself a harmful practice) can be applied to resolve disputes. Nevertheless, Afghan women do have some means of accessing informal or TDR mechanisms, albeit sporadically and most often through a male relative. Increasingly, women are playing an important role in resolving intra- and interfamily disputes, usually within the confines of the home or the immediate family, and research suggests that men are generally supportive of an expanded role for women in dispute resolution processes, especially in the family context.¹⁹¹

Approach and major goals: The Program was designed to enhance access to fair, transparent, and accountable justice for Afghan men, women, and children through TDR mechanisms. The primary approach was supporting and strengthening (largely by improving) TDR mechanisms, increasing the capacity of key stakeholders in the informal justice system, and enhancing links between the informal and formal justice systems. Gender equity in access to and outcomes of TDR processes was a priority throughout the Program, and particular attention was given to safeguarding women’s rights. While the Program did not have explicit objectives relating to GBV, it aimed to empower women indirectly by aligning TDR mechanisms that rely on traditional practices with Afghan law. Awareness raising about Afghan law was used to build a culture of respect for women’s rights and to end tolerance for harmful traditional practices. Strengthening TDR mechanisms also entailed increasing women’s role as disputants, witnesses, and decision makers, with the aim of decreasing the number of informal justice system decisions that negatively impact women.

Illustrative activities that address GBV: Workshops for male and female village elders were used as an educational tool on Afghan law. The topics of baad, forced marriage, and violence in the family were addressed sensitively but explicitly. Trainees reported that they later used the knowledge they gained to prevent violations of the rights of women and girls. Legal outreach was directed to the general public to raise legal awareness. The Program supported the establishment of 67 women’s dispute resolution groups consisting of respected female elders (spinsary) and based on traditional processes. From October 2012 to December 2013, the spinsary groups resolved 481 disputes, more than half of which may have had some relevance to GBV (38 percent dealt with family disputes—a category that includes domestic violence—and 18 percent concerned marriage, including forced marriage/baad).¹⁹²

Key outcomes and successes: A key program outcome was the introduction of the topics of women’s rights and GBV in the informal justice context in order to dispel misconceptions that Sharia law justifies harmful practices. Monitoring of the Program found that people who were targeted with legal outreach, which included information on women’s rights, were 15 percent more likely than those who did not receive such messages “to affirm that forced marriages are both illegal and un-Islamic.”¹⁹³ The work of spinsary groups has had an impact on mitigating local disputes. Some spinsary groups reported that there is both “a higher level of legal awareness in their communities and fewer disputes troubling their communities”¹⁹⁴ (although it is not clear whether GBV specifically has decreased).

190. UN Assistance Mission in Afghanistan and the Office of the UN High Commissioner for Human Rights, *Living with Violence: A National Report on Domestic Abuse in Afghanistan*, 53.

191. Checchi and Company Consulting, *Kuz Kunar, Nangarhar Assessment and Action Plan* (Washington, DC, 2011), 4, 7.

192. Data on spinsary decisions for October–December 2013. Checchi and Company Consulting, *Quarterly Performance Report October–December 2013* (Washington, DC, 2014), 2, 16.

193. Eric Bartz, “From the Field: Consolidating Rights from the Ground Up—Improving Access to Justice for Rural Afghan Communities,” Council of International Development Communities, January 9, 2014, <http://www.cidc.us/journal/2014/1/9/from-the-field-consolidating-rights-from-the-ground-up-impro.html>.

194. Checchi and Company Consulting, *Quarterly Performance Report July–September 2013* (Kabul, Afghanistan, 2013), 5.

Women's improved knowledge of the law has increased their status in the community, empowered them to become more active in resolving disputes, and led them to form networks.

Challenges and lessons learned: The sustainability of the spinary groups outside of the Program is not certain, but the fact that women have begun to form coordination groups independently is a positive sign that the initiative may continue. Coordination between the informal justice and formal justice Program components was limited, and there is still a need to bridge the gap between the systems to improve overall responses to GBV. In addition to improving TDR mechanisms, women should be empowered and supported to register formal complaints of GBV at the district level. At the same time, the capacity of police and prosecutors to coordinate with TDR processes must be increased in order to implement the EAW law in remote and rural areas. Greater engagement with the Ministry of Justice and its district-level representatives on GBV should be included in ROL programs that address the formal justice sector.

Democratic Republic of the Congo: Sexual and Gender-Based Violence Programming

Note: USAID supports several multisector programs on improving social protection for victims of sexual and gender-based violence (SGBV) in the Democratic Republic of the Congo (DRC). The American Bar Association Rule of Law Initiative (ABA ROLI)—the sub-implementer of ROL activities on GBV—operates a Women’s Justice and Empowerment Program in North Kivu, DRC, which conducts varied legal activities. This case study synthesizes activities in across two ROL projects that are receiving USG funding: **Care, Access, Safety and Empowerment (CASE) of Survivors and Communities at Risk of SGBV** (2010–2015) and **USHINDI-Overcoming Sexual and Gender-Based Violence in Eastern Congo** (2010–2015).¹⁹⁵

Form of GBV addressed: Sexual and gender-based violence.

Context: Years of conflict in the eastern DRC have resulted in extremely high levels of SGBV. By some estimates, up to 40 percent of women have experienced sexual violence. Incidents of SGBV are particularly brutal, often perpetrated by multiple people, accompanied by torture, and perpetrated in public settings with relatives forced to witness the act.¹⁹⁶ According to a survey of SGBV survivors conducted under the USHINDI Program, almost two-thirds of respondents had been raped 2 or 3 times, 34 percent had witnessed the rape of family members, and 45 percent had witnessed both the rape and murder of family members.¹⁹⁷ Rebel forces, the military, police, and civilians all commit sexual violence. While women and girls are the most vulnerable to rape and abuse, such crimes are also committed against men and boys. Domestic violence is also prevalent. In a 2011 nationwide survey, significantly more women reported experiencing intimate partner violence than rape (approximately 3 million women compared to approximately 1.7 million women).¹⁹⁸

Factors that contribute to endemic SGBV include instability and the ongoing conflict in eastern DRC; preexisting cultural beliefs that tolerate sexual violence; poverty; illiteracy; and a debilitated justice system. In 2006, the Law Against Sexual and Gender-Based Violence was enacted and in 2009 the Child Protection Code was introduced, but the legal system provides little protection for SGBV victims, and in fact, can increase a survivor’s risk of being re-victimized. Victims often live in remote areas, far from justice institutions, and they do not have the economic means to pursue a case (women are more likely than men to lack financial resources). Many victims are unaware of their rights under the law or do not trust the justice system to ensure their safety. A third of respondents to the USHINDI survey stated they did not want to report the violence out of fear of reprisals by the military, 27 percent preferred to use private justice and resolve issues outside of court, and 9 percent were afraid to appear in court. In addition, SGBV survivors experience extreme trauma, but existing psychosocial and medical services are limited. Survivors are often shunned by their families and communities and as a consequence they become isolated psychologically and economically. Impunity is one of the major reasons that sexual violence continues in eastern DRC. Although arrests and prosecutions of rape and sexual violence are increasing, most cases are brought against civilians and lower-level soldiers, but not commanders.

195. The CASE Program is implemented by the International Medical Corps (IMC), and USHINDI is implemented by IMA World Health. Both programs are consortium-based. The American Bar Association Rule of Law Initiative (ABA ROLI) is implementing the subcomponents on access to justice and legal assistance.

196. Rebecca Holmes and Dharini Bhuvanendra, *Preventing and Responding to Gender-Based Violence in Humanitarian Settings* (London: Humanitarian Practice Network of the Overseas Development Institute, 2014), 5.

197. Louise Bashige Nzigire, “USHINDI Project: Overcoming Sexual and Gender Based Violence in Eastern Congo” (presentation), accessed March 2014, <http://www.svri.org/forum2011/Overcoming.pdf>. Note that some experts consider these figures to be low.

198. Holmes and Bhuvanendra, *Preventing and Responding to Gender-Based Violence in Humanitarian Settings*, 5.

Approach and major goals: Both the CASE and USHINDI Programs are implemented in eastern DRC, specifically North Kivu and South Kivu provinces (both CASE and USHINDI) and Oriental and Maniema provinces can access holistic and integrated services. The Programs aim to improve the most critical services that SGBV victims require (medical care, psychosocial support, social and economic reintegration, and legal support) in order to help them to recover from the violence, obtain legal redress, and reintegrate into their communities. The Programs were designed so that the varied social protection services are coordinated to ensure the best outcomes for survivors. (For the purposes of this case study, however, the legal services and access to justice activities are described in isolation from other interventions.) Another important component of the Programs is the inclusion of community sensitization activities and information campaigns on SGBV, which are used to inform survivors about their rights, improve acceptance of rape survivors, and increase protections for the community.

Illustrative activities that address GBV: Focusing only on the ROL component, key activities aimed to assist SGBV survivors and reduce impunity include: support for legal aid clinics; development of a paralegal network at the community level; supporting the justice system to operate mobile courts; training and encouragement of justice actors to take actions to combat SGBV; and provision of technology to improve the functions of the justice system. The legal sector activities are integrated with other services. For example, legal aid clinics provide sustained legal and psychological counseling, and some are located in hospitals (ABA ROLI supports 19 legal clinics in the DRC). This arrangement not only supports referrals of clients between services, but it facilitates cooperation (e.g., in obtaining doctor-certified medical certificates as evidence in rape cases). Legal services clients (both female and male) receive accompaniment throughout the legal process, including investigation and trial. Because victims might be required to stay in district centers for several months during a trial, a victim support fund and network of community organizations provide funds for expenses and safe-house lodging.

Because many SGBV survivors live in remote areas and lawyers are in larger cities, a paralegal network brings legal information to the community level. The paralegals are community members who provide information about the functions of the justice system and basic legal assistance. The paralegals, in cooperation with local NGOs, are supported to develop standardized services for SGBV survivors and programs to combat SGBV locally. The Programs also support the implementation of the Congolese law that permits mobile courts. Such courts may be convened to address mass atrocities or may periodically travel to remote areas to address a backlog of criminal cases. In either instance, SGBV cases are the majority of those heard by mobile courts. Legal assistance is provided to victims and witnesses during investigations and at hearings before mobile courts.

The training and capacity-building programs for justice sector actors improve access to justice. Judges and magistrates are trained in order to enhance the support they provide to SGBV victims, and they are encouraged to collaborate on improving the justice system as a whole (through regular meetings between legal professionals). Capacity-building projects have also included the digitization of court records, creating the first SGBV case-law database,¹⁹⁹ and upgrading communication technology so that police and prosecutors receive timely information about rape cases and can respond effectively (this activity is part of an early warning system).²⁰⁰ Even in cases when judgments are rendered, victims may not receive the reparations to which they are entitled, and the process of bringing a suit is expensive

199. American Bar Association Rule of Law Initiative, *Promoting Justice, Economic Opportunity and Human Dignity*, 25.

200. Richard Malengule, Director of the Women's Justice and Empowerment Program in North Kivu, Democratic Republic of Congo, presentation at ABA Conference on Emerging Topics in the Rule of Law, Washington, DC, March 5, 2014, accessible at http://www.americanbar.org/advocacy/rule_of_law/newsroom_events/rule_of_law_conference/rule_of_law_conference_2014.html.

and complex. Therefore, assistance has been provided so that SGBV victims can pursue reparations claims (under the CASE Program). Legal aid lawyers have initiated 12 cases on reparations.

Key outcomes and successes: The comprehensive approach used in these SGBV Programs is necessary to address the multiple and related issues victims face. Coordination among service providers maximizes their effectiveness so that if victims are able to obtain justice through the justice system, their other needs are also met, and they can more fully recover and reintegrate. In 2013, nearly 4,000 survivors of SGBV and vulnerable individuals received legal advice with support under USAID programs, and out of the 1,043 cases presented in court, 91 resulted in convictions.²⁰¹ Almost 2,000 justice center and civil society representatives have received training on SGBV issues.²⁰² The training of both legal professionals and local NGO partners is a means of ensuring that the activities will be sustained. The paralegal program and small grants to community-based NGOs, in particular, have been effective in bringing legal information to isolated areas and encouraging communities to develop actions to combat GBV. Such activities are a useful means of addressing tolerance for harmful practices that are based on tradition and culture. Overall, the Programs are thought to have brought about behavioral change. Legal support has encouraged victims to use the formal justice system, which was considered weak and less preferable than using traditional dispute resolution. Greater trust in the formal justice system is seen both in victims' willingness to use legal services and the demand from other service providers to expand legal aid further. The mobile courts have also had a beneficial impact. For some, the mobile court is their first experience seeing a judge or magistrate, which is encouraging for victims but also serves as a deterrent for potential perpetrators who see justice being enacted in their communities.²⁰³

Challenges and lessons learned: In the DRC, it is estimated that a quarter of prisoners have been convicted or charged with rape. However, in terms of addressing the justice chain in its entirety, one critical gap in the Programs are their limited attention to improving the penitentiary system. Prisons are in poor repair and guards are underpaid, poorly trained and corrupt, all of which mean that suspects and convicts regularly escape. Weaknesses in the penitentiary system undermine justice efforts, which can be especially detrimental to survivors who have been involved in SGBV prosecutions.²⁰⁴ Other challenges include the contradictions between the laws that prohibit SGBV and cultural acceptance of harmful traditional practices. Instability in the country, as well as uncertainty about future funding, also present challenges to ensuring that such comprehensive services can be supported and sustained.

201. USAID/Democratic Republic of Congo, *Fact Sheet: Addressing Gender-Based Violence in the DRC* (December 2013).

202. American Bar Association Rule of Law Initiative, *Promoting Justice, Economic Opportunity and Human Dignity*, 25.

203. Richard Malengule, presentation at ABA Conference on Emerging Topics in the Rule of Law, March 5, 2014, Washington, DC.

204. *Ibid.*

El Salvador: Justice Sector Strengthening Project (2013–2018)²⁰⁵

Form/s of GBV: The focus is on domestic violence, sexual violence, and rape, but assistance models developed under the Project could be applied to other forms of GBV. Notably, the Project includes capacity building to investigate complex GBV cases (e.g., serial rape, intentional homicide/femicide).

Context: High rates of crime and violence are a significant development issue for El Salvador. In the context of increasing criminal activity, GBV is also on the rise. Particularly troubling is the increase in female homicides, which has made El Salvador one of the most violent countries for women in the Americas. Official figures indicate, for example, that the female homicide rate (based on reported cases) increased by 88.5 percent from 2008 to 2010, with most victims aged from 10 to 29.²⁰⁶ The term “femicide” is commonly used in Latin America to describe gender-motivated killing of women. It can encompass homicides committed by armed or militia groups or as part of gang activity, but it is also a type of violence perpetrated in the family, by intimate partners. The number of reported cases of (non-lethal) domestic violence has also increased in El Salvador.

El Salvador has a progressive legislative and policy base on VAW, including the Special Integrated Law for a Life Free of Violence against Women (2012), which criminalizes femicide and establishes protection measures for survivors and their families, and the Law against Intrafamily Violence, which gives judges the power to issue restraining orders. However, a gap between the legislation and its enforcement remains. Impunity for femicide crimes is estimated at 77 percent.²⁰⁷ Of all cases of sexual violence from 2001 to 2009, more than 58 percent were dismissed before reaching judgment.²⁰⁸ Low conviction rates are attributed to ineffective investigation procedures, evidentiary issues (both the failure to collect evidence and the emphasis on physical evidence and testimony), a culture of discrimination in law enforcement and judicial institutions, and limited support services for victims.²⁰⁹ Women and girls rarely report violence due to the fact that “they lack confidence in the justice system” and also because of “the limited responsiveness of institutions to prevent and punish GBV.”²¹⁰

Approach and major goals: Crime and insecurity are key constraints to economic growth in El Salvador, and the U.S.-Salvadoran Partnership for Growth Joint Country Action Plan (2011–2015) includes initiatives on crime prevention.²¹¹ The Justice Sector Strengthening Project complements the crime prevention activities under the partnership agreement and supports the Government of El Salvador’s efforts to reduce impunity and increase citizen trust in the justice system by making its institutions more effective. USAID’s justice sector reform activities are, among other things, designed to reduce impunity in GBV cases, to improve legal and other forms of support for victims, and to strengthen the capacity of key justice system actors to manage GBV cases through technical assistance and training.²¹² The Project also builds upon previous USAID ROL programming that supported the

205. The Justice Sector Strengthening Project is implemented by Checchi and Company Consulting.

206. USAID/El Salvador, *Country Development Cooperation Strategy 2013–2017* (Washington, DC: USAID), 6.

207. UN Women News, “Femicide in Latin America,” April 4, 2013, <http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america>.

208. USAID/El Salvador, *Country Development Cooperation Strategy 2013–2017*, 16.

209. Office of the High Commissioner for Human Rights, “Statement of the UN Deputy High Commissioner for Human Rights at the Gender-Related Killings of Women,” March 8, 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13122&LangID=E>.

210. Alivelu Ramisetty and Muthoni Muriu, “When Does the End Begin?” Addressing Gender- Based Violence in Post-Conflict Societies: Case Studies from Zimbabwe and El Salvador,” *Gender & Development* 21, vol. 3 (2013): 495.

211. El Salvador is one of four countries worldwide that is participating in President Obama’s Partnership for Growth (PFG) initiative, which is designed to accelerate and sustain broad-based economic growth.

212. USAID/El Salvador, *Country Development Cooperation Strategy 2013–2017*, 18.

Government of El Salvador to implement the new Criminal Procedure Code and focused on improving services for victims of domestic and sexual violence.²¹³ Improving the justice system response to GBV is a key element of early intervention that is expected to prevent the escalation of violence and re-victimization.

Illustrative activities that address GBV: The Project addresses GBV through the support and development of a model of integrated victim assistance that links government agencies, justice sector institutions, and civil society. As of April 2014, there are 10 such integrated victim assistance centers operating under this model, and 21 additional centers are planned to be opened by the end of 2018. The Project works with the Salvadoran Government to support the centers, which are located in various institutions: integrated criminal justice centers, offices of the Attorney General, forensic units, and specialized police units. Some of the centers (Comprehensive Assistance Units for Victims of Sexual Violence, Domestic Violence and Child Abuse) address several forms of GBV. All of the centers provide free integrated services (which can include legal aid, medical assistance, psychological assistance, social support, and referrals) and coordinate the work of relevant justice sector actors and NGO-based victim support networks. One important feature of the integrated assistance model that helps to mitigate attrition in the justice chain is the role of multidisciplinary teams that support victims during forensic exams, investigation, and court processes. The Project works cooperatively with the government to strengthen and expand these institutions through technical assistance, workshops and public outreach to raise awareness of the centers' services.

Two of the assistance centers—Rape Crisis Centers—are based in forensic units and provide specialized services to victims and their families, including crisis intervention and accompaniment during forensic and medical examination processes. It was observed that many of the victims presenting at the Rape Crisis Centers are minors, and in some areas up to 40 percent of victims are boys. A special activity was therefore included to develop child therapy centers (ludotecas) that offer crisis intervention and assist child victims of sexual abuse and domestic violence, as well as their families, through the legal process. The USAID-supported ludotecas are operated by a local NGO and are placed in each of the victim assistance centers supported by the Project.

An activity to improve law enforcement response to GBV builds on past success in developing a community policing model that is forging a much-needed link between the victim assistance framework and law enforcement. The activity entails developing specialized police units that are staffed with officers who are trained to deal with incidents of domestic and sexual violence and can offer victims psychological support.

Other activities include training for justice sector personnel, including staff of victim assistance centers, on methodologies for investigating and prosecuting complex rape and homicide cases. The Project is strengthening referral services between the victim assistance centers and other agencies, such as shelters, job training/employment offices, and healthcare providers. By linking to a Ministry of Health rapid referral system, for example, the victim assistance centers can provide access to HIV/AIDS antiretroviral treatment to male and female victims within 48 hours of a rape.

Key outcomes and successes: Monitoring indicates that the number of victims (and their families) using the services of victim assistance centers has steadily increased. The majority of clients are female; in the case of Comprehensive Assistance Units for Victims of Sexual Violence, Domestic Violence and

213. Under USAID's Justice System Improvement Program 2008–2012. From 2010, improving services for GBV victims was a focus of RoL activities.

Child Abuse, they are mainly adults over age 18, and in the case of Rape Crisis Centers, most are between the ages 13 to 17. Monitoring of outcomes is currently being conducted, but preliminary findings show that in some victim assistance centers, 98 percent of GBV cases have been resolved. More police officers have been trained in GBV-related issues and how to work with victims, and the number of female police officers has increased nationwide (from a 10 percent national average to close to 30 percent among new recruits). The Salvadoran Government now manages all victim assistance centers, and they are staffed by employees who received training under USAID projects. One of the factors that has made the current project, and its precursors, effective and sustainable is the emphasis on interagency cooperation and efforts to ensure that relevant stakeholders (from the government, justice and health sectors, and civil society) were involved from the outset in designing, implementing, and evaluating the various models. The project implementer has worked closely with the authorities throughout the project, especially mid-level officials, which ensured both ownership of the project and also consistency when top leadership changed.

Challenges and lessons learned: The main challenge is to enhance coordination between justice sector agencies, hospitals, and other peripheral services to ensure that the integrated victim assistance model is effective at each location, even in the more remote areas of the country. USAID is exploring ways to facilitate more effectively a combination of legal responses, such as restraining orders and other protection measures, used in conjunction with criminal investigations and civil lawsuits.

Georgia: No to Trafficking in Persons and Domestic Violence Project (2005–2009)²¹⁴

Form/s of GBV: Trafficking in persons and domestic violence.

Context: When the Project was designed, Georgia had no stand-alone legislation on either trafficking in persons (TIP) or GBV. TIP was considered a serious problem in Georgia, and while the country was making progress (it was implementing a national action plan, had created a law enforcement anti-trafficking unit, and had informally begun to refer victims to an NGO-operated shelter) there were very few trafficking prosecutions or convictions, and criminal code provisions passed in 2003 had several areas of weakness.

Efforts to address GBV were mainly confined to anti-domestic violence activities led by NGOs with international donor support. The lack of dedicated legislation on DV was a significant factor in discouraging victims from applying to either law enforcement agencies or NGOs. While the law criminalized rape and other forms of sexual violence, it did not recognize VAW nor did it explicitly protect women from abuse by family members, such as their husbands.²¹⁵ As a result, the general public (especially victims), law enforcement, and legal authorities had only limited understanding of the issue of DV, and lines of authority were not clear.

In 2006, Georgia adopted two significant pieces of legislation, the Law on the Fight Against Trafficking in Persons and the Law on the Elimination of Domestic Violence, Protection and Support to its Victims. The passage of the anti-trafficking law led to the creation of the State Fund for Protection and Support of Victims of Trafficking. The passage of the DV law was followed by the adoption of an Action Plan on the Elimination of Domestic Violence, Protection and Support to its Victims (2007–2008). The DV law established the protective order—a new legal remedy in Georgian law. This legal and policy framework provided the basis for interagency cooperation on developing comprehensive responses to these crimes.

Approach and major goals: The Project implementer, the Georgian Young Lawyer’s Association (GYLA), had previously been involved in developing a national action plan to combat trafficking for 2005 to 2006 and was a member of the Interagency Anti-Trafficking Coordination Council. Therefore, the No to Trafficking in Persons Project in its inception focused on assisting the Georgian Government in implementing the TIP national action plan. The Project used three approaches to combat trafficking: improving legislation and policy on trafficking; providing protection for TIP victims; and raising legal awareness of TIP.

Although GYLA had implemented other USG-funded activities on DV, for example it was a key participant in drafting the DV law in 2004 and provided legal services to victims, the issue was not incorporated into the Project until 2008. The Project was expanded to include DV in part to build on GYLA’s experience improving the legal response to TIP, and also because of increased interest by both the Georgian Government and USG to address this type of GBV.²¹⁶ The approach for the expanded program remained much the same, but specific attention was directed toward the establishment of shelters for TIP and DV victims and to amending the DV law to improve procedures for hearings and

214. The Georgian Young Lawyer’s Association (GYLA) initiated the No to Trafficking in Persons Project in 2005 and also worked as a subgrantee (under the ABA-ROLI Women’s Rights Program, 2006–2008) on several USG-funded projects on domestic violence. From 2008 to 2009, USAID funded GYLA directly to continue its activities on trafficking in persons and domestic violence under the No to Trafficking in Persons and Domestic Violence Project.

215. American Bar Association Central European and Eurasian Law Initiative, *CEDAW Assessment Tool Report: Georgia* (Washington, DC, 2003), 53.

216. Columbia School of International and Public Affairs (Columbia/SIPA), *Addressing Trafficking in Persons and Domestic Violence in Georgia: An Assessment Study* (Tbilisi, Georgia: Women’s Political Resource Center/International Foundation, 2010), 23.

victim protection. The Project was conducted in close cooperation with government ministries, the Prosecutor's Office, the Ombudsman's office, NGOs, and international organizations. Notably, both TIP and DV activities under the Project were "designed to be handed over to the government incrementally, in order to support the sustainability of the project initiatives."²¹⁷

Illustrative activities that address GBV: Activities for the three main directions of the Project included: providing expertise in legislative drafting and lobbying for the passage of the laws and their later amendment; improving protection for TIP and DV victims through the development of free legal aid services, shelters, and a referral mechanism; and conducting trainings for key justice sector actors, educating the general public, and undertaking prevention work targeting people at risk for trafficking and DV. Activities to improve the legal framework on TIP and DV included legislative drafting as well as efforts to later amend and strengthen the laws. For example, the TIP law was expanded to address child trafficking more effectively.

Activities to improve victim protection were at the heart of the Project and followed a similar pattern for both TIP and DV. GYLA, working with other organizations, initiated a database to track key legal processes (for example, protection orders issued in DV cases), which improved monitoring, information sharing, and the effectiveness of legal services. Free legal consultations were offered in person (through GYLA's branch Legal Aid Centers) and through free telephone hotlines to trafficking victims, people who were leaving Georgia for study or work and needed a legal review of their contracts, and victims of DV. Lawyers drafted legal documents and provided representation during the investigation stage and in court for both civil and criminal matters.²¹⁸ A National Referral Mechanism (on TIP) was initiated in order to increase victim protection and coordination between various agencies and support was provided to shelters and crisis centers. Within the framework of the Project, two TIP shelters were established, which also housed some DV victims.

Under the education and awareness-raising component of the Project, trainings were conducted for staff of key agencies responsible for either TIP or DV cases (which included law enforcement agents, ministerial staff, judges, lawyers, border patrol, public defenders, social workers, and journalists) in order to improve their understanding of GBV and their roles in implementing the relevant laws.

The Project also included extensive activities to raise public awareness of TIP and DV, through media events (television and radio programs), poster/art competitions, school visits, concerts, the creation and distribution of written materials (e.g., brochures, calendars, postcards, and bookmarks), and participation in international campaigns, such as International Women's Day. It was determined that many preexisting anti-trafficking materials were not appropriate for or applicable to the Georgian population, and so specialized materials were developed to educate the public and provide information about resources and services. In the case of DV, lawyers distributed materials with anti-violence messages and hotline numbers.

Key outcomes and successes: The Project is considered to have been particularly effective in advancing a comprehensive approach to addressing TIP, especially in terms of the provision of legal aid to TIP victims. The various TIP-related activities have contributed to Georgia's improved ranking under the U.S. State Department's annual TIP report.²¹⁹ The passage of the DV law, which created a new legal mechanism for the protection of victims, helped change cultural norms about DV (it was generally considered a private issue) and paved the way for greater cooperation between state agencies. The

217. Ibid.

218. GYLA, *Annual Report 2006* (Tbilisi, Georgia, 2006), 24, and *Annual Report 2009* (Tbilisi, Georgia, 2009), 29.

219. Columbia/SIPA, *Addressing Trafficking in Persons and Domestic Violence in Georgia: An Assessment Study*, 29.

collaborative approach used by GYLA of bringing together various stakeholders, including from civil society, introduced a model of interaction that could be sustained when the government began managing many of the activities. The Project's prevention efforts had a significant focus on youth, which not only engaged with Georgia's young population directly but was also an important method in effecting change in cultural attitudes about GBV. GYLA continues to provide legal aid and to monitor TIP and DV cases.

Challenges and lessons learned: Improvements in the capacity of law enforcement and the justice system to handle DV cases has been considerably more limited than in TIP cases. Several serious obstacles remain, such as traditional and societal attitudes, a lack of data on DV, limited police action in issuing and enforcing protection orders, and continued amendment of the law relevant to DV cases.²²⁰ The fact that TIP and DV were approached as separate issues, not both as forms of GBV, meant the Project did not emphasize the common factors that contribute to each crime. Given that there was greater political will to address TIP at the time, such an approach could perhaps have helped to garner support for further reform of the justice system response to DV.

220. Ibid., 45, and Gender Information Network of the South Caucasus, "Domestic Violence—Disputed Article of the Criminal Code," August 2, 2013, <http://www.ginsc.net/home.php?option=article&id=26771&lang=en#.UzhKJCg6GuV>.

Kenya: Addressing Sexual and Gender-Based Violence in Kibera Program (Suluhisho Ni Mimi—*I am the Solution*) (2011–2014)²²¹

Form/s of GBV: The thematic approach is sexual and gender-based violence (SGBV). Program activities respond to the forms of SGBV most commonly experienced by women and children, referred to legal services, and handled by legal aid lawyers: domestic violence, rape, and sexual abuse of children (“defilement” under Kenyan law).

Context: Kibera is an informal settlement on the outskirts of Nairobi that houses almost one million people. It is the largest settlement of its kind in Africa. Delivery of basic services is poor, and several factors that exacerbate GBV are prevalent in Kibera, such as high rates of unemployment, alcohol and substance abuse, crime, and unsafe conditions (e.g. use of communal toilets and showers located at a distance from the home).²²² Intimate partner violence is often accepted as “normal,” but community members express concern over the sexual abuse of children.²²³ However, incidents of rape and incest are rarely reported to law enforcement because they are considered shameful.

SGBV is an endemic problem in Kenya. The relevant law has been strengthened (the Sexual Offences Act was enacted in 2006) and there is a national system for addressing SGBV—a multidisciplinary task force created by the Attorney General, consisting of legal and medical professionals. Implementation of the law, however, is not uniform. Women in Kibera, for example, report that there is little or no police presence in the settlement, which adds to their sense of insecurity and deters GBV survivors from reporting violence (out of fear of reprisals and stigmatization or the view that law enforcement authorities would not respond adequately).²²⁴

Approach and major goals: In the wake of the 2007 presidential election, Kibera became the epicenter of an outbreak of severe violence, including SGBV. The Suluhisho Ni Mimi Program was designed to expand previous efforts to improve legal aid services for Kibera residents and to respond to the needs of SGBV survivors specifically. The Program goals are to increase victims’ access to justice through the provision of legal aid; to improve case management and coordination of SGBV services; and to increase community awareness of, and action to address, SGBV. The Program builds upon activities conducted under the earlier Women’s Justice and Empowerment Initiative, including the introduction of a coordinated response model. The Program provides greater infrastructure support to legal aid centers, supports their scale up, and has expanded the “one stop shop” model to link services for SGBV victims more effectively. Key partners in the Program include the Kibera Law Court, the Langata District Commissioner’s Office, and the Task Force on the Implementation of the Sexual Offences Act.²²⁵ Expected outcomes include an increased number of clients/survivors of SGBV served by legal aid and greater effectiveness of the services.

Illustrative activities that address GBV: The Program strengthens a “one stop shop” integrated referral platform in Kibera that provides survivors with access to legal aid, psychosocial support, medical services, temporary shelter, and economic empowerment projects. Legal aid clients, who either come

221. The Addressing Sexual and Gender-Based Violence in Kibera Program is implemented by the Center for Rights Education and Awareness (CREAW), an NGO. The program continues CREAW’s work, initiated by Kenya’s Prime Minister in 2009, to improve outreach on GBV to Kibera residents.

222. See generally, Amnesty International, *Insecurity and Indignity: Women’s Experiences in the Slums of Nairobi, Kenya* (London: Amnesty International Publications, 2010).

223. Elly Arnoff et al., *The Women’s Justice and Empowerment Initiative: Lessons Learned and Implications for Gender-Based Violence Programming in Sub-Saharan Africa* (Chapel Hill: Measure Evaluation, 2013), 66.

224. Amnesty International, *Insecurity and Indignity: Women’s Experiences in the Slums of Nairobi, Kenya*, 10–11.

225. USAID/Kenya, “Addressing Sexual & Gender Based Violence in Kibera,” Fact Sheet (March 2013).

directly or are referred by SGBV service providers, can receive consultations and representation in court on a variety of legal matters, including divorce and child maintenance. Improvements have been made to legal aid case management, such as modification of the client intake form, increased confidentiality and security of case files, and development of a database of clients that enables tracking of individual cases and aggregation of data. A next step is to incorporate these data into the national M&E framework being developed by the National Gender and Equality Commission. Training activities are conducted with stakeholders in the referral system, such as shelter operators, to provide them with legal information. The Program includes community forums with leaders (men, women, and youth) who have been trained on the law and how to refer victims to appropriate services. Public awareness activities (such as radio call-in shows, jingles, murals, theatre performances, and film screenings) are used to educate the population about the Sexual Offenses Act, the role the public can play in combating SGBV, and the steps to take if one experiences sexual violence.²²⁶ Legal counseling is also provided to the public during the campaigns.

Key outcomes and successes: The Program has improved upon and expanded a coordinated referral system for Kibera. Cooperation among a diverse group of stakeholders (community-based organizations, service providers, the law enforcement and justice sectors, healthcare providers, and religious leaders) on SGBV cases has improved because they worked together to develop the “one stop shop” referral platform and are still supported through capacity-building activities. Referrals have increased among service providers and of SGBV survivors to local services. After having received training in community forums, 50 percent of local leaders reported that they had referred at least one survivor to legal aid or other services, and 20 percent had invited experts, including lawyers, to speak about SGBV with their constituents.²²⁷ Improved coordination has also resulted in a steady increase of SGBV clients receiving legal aid. Before the program launch in 2011, the office received an average of 20 SGBV cases per month. From October to December 2013, the Program’s legal aid office received 147 new clients (139 women)—55 percent of the new cases were referred by GBV service providers. Of the total cases (old and new), 38 concerned GBV (10 of which have been filed in court), 85 concerned child maintenance (19 cases in court), and 12 were mediations on GBV issues.²²⁸ Training and public awareness activities have reached a wide audience—over 1,000 people have been provided with information on GBV during campaigns (during the 2013 16 Days campaign, 68 people—53 women and 15 men—visited the legal aid stand and received information about SGBV and the Suluhisho Ni Mimi Program). Leaders in government offices and law enforcement have supported and participated in such awareness-raising activities. For example, the 2012 16 Days campaign was organized around a theme of cooperation with the police to end GBV in the community and the home.

Challenges and lessons learned: A baseline survey conducted in 2012 highlighted the following challenges facing the Program: the prevailing attitude in Kibera that some forms of GBV are private matters, high poverty rates, and women’s economic dependence—all of which mean that women often tolerate domestic violence. Women who leave an abusive relationship generally only seek legal assistance related to divorce or child maintenance, not for the abuse.²²⁹ The legal assistance provided to SGBV survivors in divorce cases is critical but it does not address the issue of impunity of perpetrators.

226. USAID/Kenya, “Addressing Sexual & Gender Based Violence in Kibera,” Fact Sheet (February 2014).

227. Centre for Rights Education and Awareness, *Quarterly Progress and Performance Report, October–December 2013* (Nairobi: USAID/Kenya, 2014), 5.

228. The Implementer notes that there was a drop in the number of GBV cases handled by legal aid because many Kibera residents were travelling during the holiday season. During the Program, legal aid has received as many as 60 GBV cases in a month. Centre for Rights Education and Awareness, *Quarterly Progress and Performance Report, October–December 2013*, 10.

229. *Ibid.*, 10.

GBV and ROL Toolkit

Those victims of SGBV who decide to pursue a case in court face procedural challenges that delay the process, such as long waiting times to receive an initial hearing date and backlogs in the courts.

Sri Lanka: Sexual Assault Forensic Examination (SAFE) Program (2011–2013)²³⁰

Form/s of GBV: The Program focused on improving the forensic system response to sexual violence. Activism and campaigns within the program raised the issue of GBV more broadly, particularly the issue of domestic violence.

Context: During Sri Lanka’s 30-year civil war, VAW (especially Tamil women) and sexual violence were widespread. Rape and other forms of abuse were used mainly by military forces as a weapon of war against civilian women and children (there is also evidence that sexual violence was used against male ex-combatants while in detention²³¹). Today, rates of GBV remain high in conflict-affected areas, and it has been reported that VAW has, in fact, increased since the defeat of the Liberation Tigers of Tamil Eelam (LTTE) and establishment of military control.²³² Prolonged exposure to systematized sexual violence has desensitized the population and created a situation of impunity. Women and children are especially vulnerable (they make up 80 percent of the displaced population), and the elderly, widowed, and marginalized are particularly at risk.²³³

When the Program was initiated, few GBV cases were being addressed in the justice system (official data are lacking, but it was estimated that only 3 to 4 percent of sexual violence cases were successfully prosecuted) due to inadequate resources to collect forensic evidence, improper handling of evidence, insufficiently trained medico-legal officers, inappropriate treatment of victims, and mishandling of cases once they reached the court.²³⁴ Victims of sexual violence were reluctant to report incidents because of a lack of confidence in the justice system—reflected in the low conviction rate—and fears that they would be ostracized.

Approach and major goals: When funding became available under a USAID program to promote post-war reconciliation in the North and East of Sri Lanka,²³⁵ the Sexual Assault Forensic Examination (SAFE) Program was designed to increase the capacity of the medico-legal system to investigate and collect evidence of sexual violence. The SAFE Program was a national initiative that contributed to the larger programmatic goals of increasing stability and public confidence in the government. Because of political sensitivities, such a project focused only on conflict-affected areas would not have been permitted. Additionally, the nation-wide approach was a means of linking experts from conflict and non-conflict areas.

The SAFE Program had two interrelated goals: to increase awareness of GBV (and sexual violence specifically) among the general public and key professionals, and to improve the prosecution of sexual violence cases by targeting specific weaknesses in the criminal justice system—limited or poor forensic evidence and the lack of a victim-centered approach. The SAFE Program identified and worked closely with a broad spectrum of stakeholders, from national institutions to grassroots organizations, in order to reach consensus and jointly develop the program components. The Program promoted a

230. The SAFE Program was funded and managed by the USAID Office of Transition Initiatives and implemented by Development Alternatives, Inc. (DAI).

231. Human Rights Watch. (February 2013). *We Will Teach You a Lesson: Sexual Violence against Tamils by Sri Lankan Security Forces*, p. 2.

232. DAI, *Sexual Assault Forensic Examination (SAFE) Program Evaluation* (Colombo, 2013), 15.

233. Dawn Hayden and Christy Martins, “Evidence Kits Turning the Tide on Sexual Violence,” *Developments*, Summer 2013, <http://dai-global-developments.com/articles/evidence-kits-turning-the-tide-on-sexual-violence.html>.

234. *Ibid.*

235. The Reintegration and Stabilization in the East and North (RISEN) Program (2009–2013), which included a range of conflict-prevention and mitigation activities with the goal of promoting stability in the region.

multidisciplinary response to sexual violence—an approach that facilitated cooperation and ensured that relevant professionals received consistent information and messages.

Illustrative activities that address GBV: The SAFE Program comprised over 30 activities that can be grouped into three categories: (1) training and education for medico-legal experts and other stakeholders; (2) distribution of “SAFE kits” (sexual assault forensic evidence collection kits), specialized equipment for forensic examinations, and legal reference materials; and (3) small grants at the community level to carry out anti-GBV campaigns. The training and educational component began with stakeholder meetings with over 200 leading experts from the legal and medical sectors (including, for example, the Attorney General’s Office, the Forensic Department, and educational institutions in medicine and forensics). A working group was then formed to develop a national SAFE curriculum on forensic examination and evidence collection that was used to train medico-legal officers. The curriculum was designed to be flexible and take into account the working conditions in Sri Lanka. It addresses multiple scenarios, providing optimal and acceptable practices that are relevant to well-equipped hospitals and village clinics. Specialized skill-development workshops were also given on the topic of interviewing child victims of sexual violence. With support of the Attorney General’s office and local bar associations, trainings were conducted for legal professionals—state counsels (public prosecutors), magistrates, and lawyers—on a victim-centered and multidisciplinary approach, evidentiary issues, and working with victims/witnesses in sexual violence cases. Because many victims do not report to either law enforcement agencies or present at hospitals, awareness-raising workshops were provided to the professionals who are likely to come into contact with victims (for example, social workers, midwives, probation officers, and civil servants) about GBV and how to refer victims to local services. SAFE kits were developed under the guidance of the Ministry of Health and distributed to all 39 government hospitals in the country. The Program promoted activism at the grassroots level to raise awareness of GBV and publicize information about how to access forensic exams and support networks. NGOs developed public awareness campaigns locally (for example, radio announcements and street dramas) and participated in international activism (the 16 Days campaign).

Key outcomes and successes: The Program has had a nation-wide impact. In addition to distributing 4,500 SAFE kits, trainings for medico-legal officers were conducted in all eight districts, and all public universities and medical faculties in the country were provided with resources and equipment.²³⁶ The Ministry of Health has adopted the SAFE kit, included funding for its use in its annual budget, and made the SAFE training mandatory—all indicators of the program’s sustainability.²³⁷ An undergraduate SAFE curriculum has been developed for medical students. The Program introduced several best practices, including: institutionalizing a victim-centered approach to forensic examination (the national medico-legal examination form was amended to include victim consent, for example); creating two child-friendly examination facilities (which not only offer a safe place for child interviews but are staffed with professionals who work with family members to minimize the risk that they will resort to vigilante justice); and promoting networking among professionals to improve efficiency and case management (a national database was initiated to record sexual assault cases by tracking the use of SAFE kits²³⁸). Two fast-track courts for sexual violence have been piloted

Several factors contributed to the effectiveness of the SAFE Program. Concerted efforts were made to engage top-level stakeholders (government leaders and experts) and grassroots activists. This approach

236. DAI website, “Reintegration and Stabilization in the East and North (RISEN),” accessed March 2014, <http://dai.com/our-work/projects/sri-lanka—reintegration-and-stabilization-east-and-north-risen>.

237. The kit itself is low cost (each kit costs US \$20) and produced in Sri Lanka.

238. USAID/Sri Lanka Snapshot, “Preventing and Prosecuting Sexual Violence,” December 2013, http://www.usaid.gov/sites/default/files/success/files/12042013%20Snapshot%20-%20SAFE_0.pdf.

resulted in attitudinal changes among professionals who deal with sexual violence and also empowered several experts who have continued to advocate for reform. Although the program did not include engagement with men as an explicit goal, men were active in implementing many activities, taking part in local campaigns and showing leadership in government. The issue of how to work with male victims of sexual violence was included in the training curriculum and framed within methods of assisting populations that have special needs (including PWD and the elderly). These techniques helped alter perceptions about GBV and highlighted the fact that men and boys are also potential victims.

Challenges and lessons learned: The SAFE Program was limited in its work with law enforcement agencies due to USAID funding regulations. Other professionals were urged to collaborate with the police as part of multidisciplinary teams, but the program could not engage as directly with the police as it could with other stakeholders. Gaps in the current legal framework impact how sexual violence cases are prosecuted, but legislative reform was not within the scope of the SAFE Program. At present, Sri Lankan law treats some forms of sexual violence as gender specific. The collection of data from rural areas for the national database remains difficult due to poor communication infrastructure outside of major cities and towns. Additionally, the database is managed by the Ministry of Health with the primary purpose of information sharing and management of sexual violence cases through the tracking of SAFE kit use. It was not intended as a tool for monitoring the justice system response to sexual violence. Nevertheless, the database could serve as the basis for future M&E of prosecution and conviction rates. It is recommended that evaluations be conducted within the next several years to assess the broader impact of the SAFE Program on reducing impunity.

Timor-Leste: Access to Justice Program (2009–2012)—Component One (Improved Legal Access and Legal Aid)²³⁹

Form/s of GBV: The thematic approach was GBV generally. Program activities responded to the forms of GBV that are most commonly experienced by women and children and handled by legal aid lawyers: domestic violence and sexual violence, including the specific crime of incest.

Context: USAID’s ROL assessment for Timor-Leste (2007) indicated that GBV was “the highest reported crime in the country. Yet, less than a quarter of cases reported to the police are sent for prosecution.”²⁴⁰ Many factors contribute to women’s limited access to justice: the roles and responsibilities of actors in the law enforcement and justice systems are unclear, police and prosecutors are not given specific training on GBV, the judiciary has limited knowledge of relevant international standards, the attitude that domestic violence is a private matter and best mediated by the family or community representative is pervasive, and women’s lack of financial independence restricts their ability to hire lawyers and use formal justice mechanisms. The legal aid sector is nascent in Timor-Leste, and at the time the Access to Justice Program was developed, the state-provided legal assistance gave priority to criminal defendants, leaving GBV victims with limited support.

The administration of formal justice in GBV cases is complicated by the fact that many people rely on informal justice mechanisms to resolve disputes. Until recently, some criminal offenses related to GBV were considered public crimes (requiring prosecution) but the majority of offenses (for example, those that would be charged in domestic violence cases) were categorized as semi-public, and the prosecutor would only act after receiving a victim’s complaint. When the Law Against Domestic Violence (LADV) was passed in 2010, many semi-public crimes changed status, which put “the responsibility squarely on the State to pursue criminal proceedings in cases of violence committed in a family setting...”²⁴¹ The law also sets forth victims’ rights to support services, including legal representation. The LADV, however, does not establish a clear legal framework that would link informal practices to the formal justice system. There was a need to improve the provision of pro bono legal services to victims, relevant to both the formal and informal contexts.

Approach and major goals: The Access to Justice Program was designed to increase the access of vulnerable groups to justice and to bridge the gaps between the formal justice system and traditional dispute resolution. The Program focused on building the capacity of legal aid organizations to deliver free legal services in litigation and mediation at the community level. One of the goals was to increase the capacity and expand the outreach of partner organizations to meet women’s justice needs. Various approaches were used, for example, sensitizing legal aid lawyers about women’s rights and GBV and supporting the Victim Support Service (VSS) of the Judicial System Monitoring Program—a national NGO. In previous years, activities were conducted to increase the capacity of the VSS to provide specialized services to victims of domestic and sexual violence, monitor GBV cases, and raise public awareness of GBV and victims’ rights. The Program sought to engage women within its activities, for example by encouraging the employment of women lawyers and paralegals and setting monthly targets for female legal aid clients (30 to 40 percent).

239. The Access to Justice Program was implemented by the Asia Foundation from 2002–2012. The main components of the project from 2009–2012 were: (1) Improved Legal Access and Legal Aid and (2) Strengthening Parliament Research and Public Awareness.

240. American Bar Association/Rule of Law Initiative (ABA/ROLI) and Freedom House, *Rule of Law in Timor-Leste* (Washington, DC: USAID, 2007), 31.

241. The Asia Foundation, *Timor-Leste Law & Justice Survey 2013* (Dili, East Timor, 2013), 8.

Illustrative activities that address GBV: The Program undertook varied activities to improve legal aid for women overall and expand legal services for GBV victims in particular. Information and resources about GBV were also integrated into other activities. For example, research was conducted to identify the legal needs of victims of domestic violence,²⁴² and data collection and analysis were improved so that legal service providers could better monitor and analyze their cases. Key activities included expanding legal aid services for women and supporting women lawyers, enhancing community-level and mobile legal aid services, and establishing a paralegal program.

In order to improve legal aid for women, specialized legal training and guidelines for working with female clients were developed. Legal aid lawyers received comprehensive training on GBV, and a two-volume manual on legal assistance and implementation of the LADV was developed and distributed to legal aid organizations. The manual outlines the legal framework for addressing GBV and includes step-by-step guidance for providing victim assistance from initial interviews to post-judgment support. The VSS was assisted in establishing the country's first women's legal aid organization (through mentoring, exchange visits for women lawyers to Indonesia, and networking opportunities, for example).

Delivery of legal aid was enhanced through mobile legal clinics that provide basic legal education, including about the LADV, are staffed by paralegals, and offer specialized services in GBV cases. The paralegal program, in conjunction with the mobile clinics, was designed to increase outreach to remote regions and address the shortage of legal aid lawyers. Paralegals provide three main services: they inform citizens about litigation and non-litigation options for resolving disputes; participate in mediation processes; and refer clients to legal aid when further expertise is needed. Many DV victims prefer to settle disputes without bringing formal charges, and paralegals often play a role in mediating these incidents. Paralegals received training on GBV and the LADV to teach them to recognize serious crimes and refer them to the police and/or legal aid and to ensure that, even if mediated through the informal system, "just outcomes" would be reached.²⁴³ Even when DV cases are brought to the police, they are often referred back to the village for settlement. The Program thus included tools to assist paralegals in conducting monitoring and tracking of such cases.

Key outcomes and successes: One indicator of the Program's effectiveness in providing legal assistance to women is the steady increase in the proportion of female clients as a percentage of the overall legal aid caseload. Women represented about a quarter to a third of clients from 2003 to 2009, but their number increased to 61 percent by 2012.²⁴⁴ The GBV manual and training program increased the capacity of legal aid lawyers to assist their clients—89 percent of trainees reported that their knowledge of GBV increased. The fact that 78 percent of female clients stated they felt comfortable with their legal aid lawyers has been partly attributed to the introduction of the manual and training sessions.²⁴⁵ By the end of the Program, domestic violence represented the largest category of cases handled by the legal aid providers, followed by sexual assault cases.²⁴⁶ Training for paralegals also seems to have increased the sensitivity of local authorities and community leaders to the issue of DV, as they now "know it is a crime that must be reported to paralegals and then to police."²⁴⁷

242. The Asia Foundation, "Ami Sei Vítima Beibeik": *Looking to the Needs of Domestic Violence Victims* (Dili, East Timor, 2012).

243. Matthew Coghlan and Selma Hayati, *Final Evaluation of Component One of the Access to Justice Program* (Dili, East Timor: The Asia Foundation, 2012), 32.

244. The Asia Foundation, *Access to Justice (ATJ) Program End of Project Report* (Dili, East Timor, 2012), 27.

245. Coghlan and Hayati, *Final Evaluation of Component One of the Access to Justice Program*, 19–20.

246. The Asia Foundation, *Access to Justice (ATJ) Program End of Project Report*, 58.

247. Coghlan and Hayati, *Final Evaluation of Component One of the Access to Justice Program*, 17.

In 2012, the VSS became an independent organization (Women and Children’s Legal Aid [AIFeLa]) that works in all districts of Timor-Leste to provide specialized legal aid to women and children. AIFeLa has increased the services available in GBV cases—formerly only legal assistance (under the VSS) was provided, but now the organization offers legal representation in court. AIFeLa primarily receives donor support, but the Timor-Leste Government has also provided funding. Monitoring conducted by the Judicial System Monitoring Program indicates that courts are hearing and deciding more cases concerning GBV, mainly DV, but the process of investigation and resolution remains slow.

Challenges and lessons learned: The sustainability of the legal aid sector itself is a general challenge that has implications for women’s access to justice. Legal aid organizations recognize weaknesses in their capacity and the need to expand their services further.²⁴⁸ The LADV helped establish a model of cooperation between state and civil society actors, but there remains a need “to address GBV across justice and policing dimensions, as well as creating linkages to other relevant local governance mechanisms ... and social service providers (e.g., medical clinics, counseling, safe houses)...”²⁴⁹ Further efforts are needed to reach people in remote rural areas to inform them about the LADV and their rights under the law.

248. The Asia Foundation, *Access to Justice (ATJ) Program End of Project Report*, 16.

249. *Ibid.*, 59.

ANNEX E: SELECTED ONLINE RESOURCES

There are many resources on specific approaches to preventing and responding to GBV in multiple sectors. The resources included here are limited to those that have a legal focus and address access to justice issues.

1. Online Databases
 2. International Law and Jurisprudence on GBV
 3. Access to Justice
 4. Good Practices and Lessons Learned
 5. Harmful Practices and Children
 6. Vulnerable Groups
 7. Ethical Considerations in GBV Research and Data Collection
 8. M&E and Indicators Relevant to GBV
 9. Resources for Country-Specific and Regional Information
-

I. Online Databases

Virtual Knowledge Centre to End Violence Against Women and Girls (UN Women)

<http://www.endvawnow.org/en/>

Module on Justice: <http://www.endvawnow.org/en/modules/view/7-justice.html>

Module on Legislation: <http://www.endvawnow.org/en/modules/view/8-legislation.html>

Gender Jurisprudence and International Criminal Law Project (War Crimes Research Office and the Women and International Law Program at American University Washington College of Law)

<http://www.genderjurisprudence.org/index.php/home-page>

Women and Justice Collection (Cornell Law School)

<http://www.lawschool.cornell.edu/womenandjustice/Legal-and-Other-Resources/>

2. International Law and Jurisprudence on GBV

International Human Rights Standards: Violence Against Women and Girls (Fact Sheet)

<http://www.gadnetwork.org.uk/storage/csw/International%20Human%20Rights%20Standards.pdf>

UN Special Rapporteur on violence against women, its causes and consequences reports on State responsibility/the due diligence standard:

Report of Rashida Manjoo to the Human Rights Commission (May 14, 2013)

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A_HRC_23_49_English.pdf

Report of Yakin Ertürk, *The Due Diligence Standard as a Tool for the Elimination of Violence Against Women*, to the Commission on Human Rights (January 20, 2006)

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/I03/50/PDF/G06I0350.pdf?OpenElement>

Summaries of Jurisprudence/Gender-Based Violence, Center for Justice and International Law (CEJIL) (2010)
http://cejil.org/sites/default/files/Summaries%20of%20Jurisprudence%20-%20Gender-based%20Violence_0.pdf

International Case Law on VAW
http://www.coe.int/t/dghl/standardsetting/convention-violence/caselaw_en.asp

Fact Sheet: Violence against Women [case law summary], European Court of Human Rights (2014).
http://www.echr.coe.int/Documents/FS_Violence_Woman_ENG.pdf

3. Access to Justice

Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment, International Development Law Organization (2013)
<http://reliefweb.int/report/world/accessing-justice-models-strategies-and-best-practices-women-s-empowerment>

Informal Justice Systems: Charting a Course for Human Rights-Based Engagement, UN Women, UNICEF, UNDP (2012) [includes chapters on women's and girls' rights and children's rights]
http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/access_to_justiceandruleoflaw/informal-justice-systems/

A Problem-Focused Approach to Violence Against Women: The Political-Economy of Justice and Security Programming, Overseas Development Institute (2013)
<http://www.odi.org.uk/publications/7372-problem-focused-approach-violence-against-women-political-economy-justice-security-programming>

Progress of the World's Women: In Pursuit of Justice 2011–2012, UN Women (2011)
<http://www.unwomen.org/en/digital-library/publications/2011/7/progress-of-the-world-s-women-in-pursuit-of-justice>

The Role of Law and Justice in Achieving Gender Equality, Background Paper for the World Development Report 2012, World Bank (2011)
<https://openknowledge.worldbank.org/handle/10986/9194>

4. Good Practices and Lessons Learned

Ending Violence Against Women: From Words to Action, UN Secretary-General [includes chapters VI (State responsibility) and VII (Promising practices in the law)] (2006)
<http://www.un.org/womenwatch/daw/vaw/SGstudyvaw.htm>

Handbook for Legislation on Violence Against Women (2010) and Supplement to the Handbook on Harmful Practices Against Women, Division for the Advancement of Women/UN Women (2011)
<http://www.un.org/womenwatch/daw/vaw/v-handbook.htm>

Learning from Cases of Girls' Rights, Equality Now Adolescent Girls' Legal Defense Fund
http://www.equalitynow.org/sites/default/files/Learning_From_Cases_of_Girls_Rights.pdf

Reparations for Conflict-Related Sexual Violence, Guidance Note of the UN Secretary-General (2014)
<http://www.ohchr.org/Documents/Press/GuidanceNoteReparationsJune-2014.pdf>

Reparations, Development and Gender, UN Women and UNDP (2012)
<http://www.unwomen.org/~media/Headquarters/Attachments/Sections/Library/Publications/2012/10/06A-Development-Gender.pdf>

Sexual and Gender-Based Violence: What is the World Bank Doing and What Have We Learned, World Bank (2013)
<https://openknowledge.worldbank.org/handle/10986/16733>

Strengthening Crime Prevention and Criminal Justice Responses to Violence Against Women, UN General Assembly Resolution (2011)
https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/Model_Strategies_and_Practical_Measures_on_the_Elimination_of_Violence_against_Women_in_the_Field_of_Crime_Prevention_and_Criminal_Justice.pdf

What Works to Prevent Partner Violence: An Evidence Overview, Strive Research Consortium (2011)
<http://strive.lshtm.ac.uk/resources/what-works-prevent-partner-violence-evidence-overview>

Women's Police Stations in Latin America: An Entry Point for Stopping Violence and Gaining Access to Justice, CEPLAES- Centre for Planning and Social Studies (2010)
http://www.ceplaes.org.ec/pdf/CEPLAES_ingles.pdf

5. Harmful Practices and Children

Child Marriage in South Asia: International and Constitutional Legal Standards and Jurisprudence for Promoting Accountability and Change, Center for Reproductive Rights (2013)
http://reproductiverights.org/sites/crr.civicactions.net/files/documents/ChildMarriage_BriefingPaper_Web.pdf

Protecting Children from Harmful Practices in Plural Legal Systems, Special Representative of the Secretary-General on Violence against Children (2012)
http://srsg.violenceagainstchildren.org/sites/default/files/publications_final/SRSG_Plan_harmful_practices_report_final.pdf

Protecting the Girl Child: Using the Law to End Child, Early and Forced Marriage and Related Human Rights Violations, Equality Now (2014)
http://www.equalitynow.org/sites/default/files/Protecting_the_Girl_Child.pdf

6. Vulnerable Groups

Breaking the Silence on Violence Against Indigenous Girls, Adolescents and Young Women, UNICEF, UN Women, UNFPA, ILO, and the Office of the Special Representative of the Secretary-General on Violence against Children (2013)
http://www.unfpa.org/webdav/site/global/shared/documents/publications/2013/VAIWG_FINAL.pdf

Documenting Good Practice by Sex Worker-Led Organizations, Occasional Paper No. 01: Addressing Violence Against Sex Workers, Global Network of Sex Work Projects (NSWP)(2012).
<http://www.nswp.org/resource/documenting-good-practice-issue-1-addressing-violence-against-sex-workers>

Out from the Shadows: Sexual Violence Against Children with Disabilities, Save the Children UK (2011)
http://www.handicap-international.org.uk/Resources/Handicap%20International/PDF%20Documents/HI%20Associations/OutFromTheShadows_2011.pdf

International Online Resource Centre on Disability and Inclusion, resources lists on “Gender and Disability” and “Disability and Violence”
http://www.asksource.info/res_library/disability.htm

7. Ethical Considerations in GBV Research and Data Collection

Putting Women First: Ethical and Safety Recommendations for Research on Domestic Violence Against Women, World Health Organization (2001)
<http://www.who.int/gender/violence/womenfirtseng.pdf>

16 Tips for Guiding Ethical Collection and Analysis of Data on Gender-Based Violence
<http://gender.care2share.wikispaces.net/Gender-Based+Violence>

8. M&E and Indicators Relevant to GBV

Guidance on Monitoring and Evaluation for Programming on Violence against Women and Girls, DFID (2012)
http://www.womankind.org.uk/wp-content/uploads/downloads/2012/08/VAWG_guidance3_MEI.pdf

Training materials on M&E of GBV prevention and mitigation programs, Measure Evaluation/USAID
<http://www.cpc.unc.edu/measure/training/materials/gbv>

Violence Against Women and Girls: A Compendium of Monitoring and Evaluation Indicators, (USAID/East Africa/ Measure Evaluation) (2008)
<http://www.cpc.unc.edu/measure/tools/gender/violence-against-women-and-girls-compendium-of-indicators>

Toolkit for Monitoring and Evaluating Gender-Based Violence Interventions Along the Relief to Development Continuum, USAID/dTS (2014)
[http://www.usaid.gov/sites/default/files/documents/2151/Toolkit%20Master%20\(FINAL%20MAY%209\).pdf](http://www.usaid.gov/sites/default/files/documents/2151/Toolkit%20Master%20(FINAL%20MAY%209).pdf)

9. Resources for Country-Specific and Regional Information

UN Special Rapporteur on Violence Against Women country reports
<http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/CountryVisits.aspx>

The Due Diligence Project (including Framework Report and Regional Reports)
<http://www.duediligenceproject.org/Resources.html>