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Manual on Gender-Sensitive Monitoring of Courts in Gender-Based Violence Cases

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Studies



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Manual on Gender-Sensitive Monitoring of Courts in Gender-Based Violence Cases

Disclaimer:

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> Introduction

This manual has been developed as a product of the Just React 2.0 project (full title: “Strengthening the role of civil society in combating social inequality and gender-based violence in Kosovo”), funded by the European Union. Its purpose is to serve as a manual for project monitors, young professionals, students and other stakeholders who will be involved in monitoring courts resolving cases of gender-based violence (GBV). The manual is intended to serve as a basic source of information for gender-sensitive monitoring, providing the legal basis, basic concepts, as well as concrete questions and indicators that can measure and address gender dynamics during court hearings.

Gender-sensitive monitoring is essential to ensure that justice systems are inclusive, fair, and free from (un)conscious gender bias. Unfortunately, courts are not immune to patriarchal norms or institutional shortcomings. On the contrary, it is these institutions that sometimes reinforce these norms. Therefore, this manual aims to equip monitors with practical tools and questions that integrate a gender perspective, in addition to monitoring the implementation of procedural and substantive legislation.

This manual includes:

- An overview of local and international legislation on gender-based violence and domestic violence;
- Basic descriptions of fundamental gender concepts related to gender-based violence
- Concrete examples of gender-sensitive elements that can be monitored during sessions.



➤ Why should we incorporate the gender dimension when monitoring court hearings in GBV cases?

For two main reasons.

First, GBV disproportionately affects women, and monitoring should reflect this.

GBV is not a gender-neutral phenomenon, women are much more affected by this phenomenon than men. According to data from UN Women, 1 in 3 women experience one or more forms of GBV during their lifetime. While according to an OSCE survey (2019), in Kosovo, 54% of women surveyed said they had experienced one or more forms of GBV since the age of 15. On another note, in the European Union, 1 in 5 women experience violence from an intimate partner at least once throughout their lifetime. Looking at this data, we understand that it is very important that the judicial system that treats victims is gender-responsive, ensuring that the needs, experiences, and sensitivities of survivors are at the center.

Second, the judicial system is influenced by patriarchal norms that continue to shape the functioning of institutions.

The judicial system cannot function in a vacuum from the rest of society, which is deeply affected by patriarchal norms. Judges, prosecutors, and other legal professionals are not immune to societal beliefs that can often normalize, downplay, or even justify violence against women. From reports by KWN, OSCE, Amnesty International, and GLPS, we have seen that gender biases are sometimes present during hearings, decisions, or judicial reasoning, where, for example, judges have questioned the behaviors of victims rather than perpetrators, and have failed to take into account the unequal power dynamics between men and women that affect these cases.

Therefore, incorporating a gender perspective when monitoring court hearings and decisions is vital.

Gender mainstreaming in the justice system is more than treating women and men equally in legal acts, or, as many legal professionals put it, "treating victims and perpetrators 'as parties' in the judicial process, rather than as genders". Gender mainstreaming requires an active and thoughtful effort to identify and correct unequal outcomes, as well as to acknowledge that the justice system itself is built on social norms that often condone or justify violence against women. This means that court monitors need to be equipped with knowledge and tools that help them understand not only the law, but also the social context and the impact that this context has on how cases are handled in practice. Gender-sensitive monitoring is also about analyzing whether the justice system is contributing to real justice for survivors, or whether it is reproducing gender inequality through its practices.

1.UN Women, Global Database on Violence against Women and Girls (2025). Accessible at: <https://data.unwomen.org/global-database-on-violence-against-women>

2.OSCE, "Survey on Wellbeing and Safety of Women in Kosovo" (2019). Accessible at: <https://www.osce.org/files/f/documents/d/c/439781.pdf>

3.FRA, EIGE, Eurostat, "EU Gender-based violence survey- Key Results. Experiences of Women in EU-27" (2024). I qasshëm në: https://fra.europa.eu/sites/default/files/fra_uploads/eu-gender_based_violence_survey_key_results.pdf

4.Kosovo Women's Network, "Nga Ligjet në Vepra: Monitorim i reagimit institucional ndaj dhunës me bazë gjinore në Kosovë" (2021). Accessible at: <https://womensnetwork.org/wp-content/uploads/2021/05/KWN-GBV-Report-ALB-final.pdf>

5.OSCE, "Trial monitoring report on the adjudication of domestic violence cases in Kosovo" (2024). Accessible at: <https://www.osce.org/files/f/documents/8/4/572074.pdf>

6.Amnesty International, "Kosovo: From paper to practice – Kosovo must keep its commitments to domestic violence survivors" (2023). Accessible at: <https://www.amnesty.org/en/documents/eur73/7123/2023/en/>

7.GLPS, "Towards and Beyond 'No Means No': A Call for Reform in Kosovo's Approach to Rape Cases" (2024). Accessible at: <https://legalpoliticalstudies.org/wp-content/uploads/2024/10/GLPS-PA07-A-Call-for-Reform-in-Kosovos-Approach-to-Rape-Cases.pdf>

➤ Legal basis

Gender-sensitive monitoring of courts must be based on a precise and in-depth understanding of the legal and strategic framework that regulates the responsibility of justice institutions in Kosovo. This framework includes documents that have different normative weight, ranging from the Constitution as the highest legal act, criminal and civil legislation, special laws on protection from gender-based violence, to national strategic documents and international human rights instruments directly applicable in Kosovo.

At the top of the legal hierarchy is the Constitution of the Republic of Kosovo, which guarantees equality before the law and prohibits any form of discrimination, including gender-based discrimination.⁸ Article 22 of the Constitution stipulates that a number of international human rights instruments have direct power and precedence over other domestic laws⁹, while Article 53 requires the interpretation of fundamental rights and freedoms in accordance with the practice of the European Court of Human Rights.¹⁰ This obliges that every court, in addition to domestic legislation, also take into account international human rights standards and interpretations.

In international legislation, the Istanbul Convention remains the highest standard for protection from gender-based violence, requiring integrated and comprehensive protection for victims, effective punishment for perpetrators, and efforts to prevent violence by institutions.¹¹ Likewise, the Convention on the Elimination of All

Forms of Discrimination against Women (CEDAW) and the European Convention on Human Rights, following the practice of the European Court of Human Rights, impose binding standards for the elimination of discrimination and the effective protection of victims.

With regards to domestic substantive legislation, the Criminal Code of the Republic of Kosovo is another basic instrument for defining and punishing criminal offences that constitute gender-based violence. The Criminal Code does not contain any specific offence relating to violence against women, but in Article 248 treats domestic violence as a criminal offence.¹² The Code also specifies that any criminal offence committed within a domestic relationship shall be considered an aggravating circumstance for any other offence.¹³

Beyond the crime of domestic violence, the Criminal Code includes a wide range of offences that may have a gender dimension and constitute gender-based violence, in cases where they comply with the definition of GBV, according to the Law on Prevention and Protection from Domestic Violence, Violence against Women and Gender-Based Violence.¹⁴ These offences may include but are not limited to the offenses of Chapter XVI - criminal offenses against life and body¹⁵, Chapter XVII - Criminal Offenses Against Human Rights and Freedoms¹⁶, Chapter XX - Criminal Offenses Against Sexual Integrity¹⁷, as well as Chapter XXI - Offenses against marriage and family.¹⁸

8. Constitution of the Republic of Kosovo, Article 23. Available at: https://masht.rks-gov.net/wp-content/uploads/2022/04/Kushtetuta.e.Republikes.se_Kosoves.pdf

9. Id., Article 22.

10. Id., Article 53.

11. Council of Europe Convention on preventing and combating violence against women and domestic violence (2015). Available at: <https://rm.coe.int/168046031c>

12. Criminal Code of the Republic of Kosovo (2019), Article 248. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>

13. Id., Article 70, paragraph 2.14.

14. See definitions in Law No. 08/L-185 on Prevention and Protection from Domestic Violence, Violence against Women and Gender-Based Violence, Article 3. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=83131>

15. This chapter includes: murder (Article 172), aggravated murder (Article 173), murder committed in a state of severe mental shock (Article 174), manslaughter (Article 175), infanticide during childbirth (Article 176), incitement to suicide and assistance in suicide (Article 177), illegal termination of pregnancy (Article 178), forced sterilization (Article 179), female genital mutilation (Article 180), intimidation (Article 181), harassment (Article 182), sexual harassment (Article 183), assault (Article 184), minor bodily injury (Article 185), serious bodily injury (Article 186), participation in a brawl (Article 187), failure to provide assistance (Article 188), abandonment of incapacitated persons (Article 189).

16. Some of the crimes included in this chapter: kidnapping (Article 191), coercion (Article 192), unlawful deprivation of liberty (Article 193), unauthorized photography and other recordings (Article 202), etc.

17. This chapter includes: rape (Article 227), sexual services of a victim of trafficking (Article 228), sexual assault (Article 229), degradation of sexual integrity (Article 230), providing pornographic material to persons under the age of sixteen (Article 231), child abuse in pornography (Article 232), incitement to sexual acts with false promise of marriage (Article 233), enabling or forcing prostitution (Article 234), providing premises for prostitution (Article 235), sexual relations within the family (Article 236).

18. Some of the offenses included in this chapter: facilitating an illegal marriage (Article 238), forced marriage (Article 239), extramarital intercourse with a person under the age of sixteen (Article 240), etc.

As for domestic procedural legislation, the Criminal Procedure Code of the Republic of Kosovo¹⁹ aims to establish binding rules for the work of courts, the prosecution and other participants in criminal proceedings, ensuring that every judicial proceeding is conducted fairly before the competent court. Every criminal proceeding must be conducted in accordance with the Criminal Procedure Code, which is why it remains a key document for gender-sensitive monitoring. For cases of GBV, the code provides for several specific protective provisions. For example, the code prohibits the temporary suspension of proceedings and mediation in these cases²⁰, and provides for special protective measures²¹ and requires that victims of GBV, domestic violence and sexual violence be treated as sensitive during criminal proceedings.²² Likewise, the victim is allowed to avoid direct contact with the defendant whenever possible during the procedure at the police, prosecutor's office or court,²³ an extremely important provision to prevent re-traumatization and to guarantee a sensitive and safe process.

Finally, the newest and most important law in this field is Law No. 08/L-185 on Prevention and Protection from Domestic Violence, Violence against Women and Gender-Based Violence, which is harmonized with the Istanbul Convention and represents a comprehensive approach. This law clearly defines the forms of violence: physical, sexual, psychological, economic and institutional, and establishes clear obligations for identification, prevention, treatment and inter-institutional cooperation.²⁴ In the definition of violence against women, the law specifies that:

*"Violence against women – is a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life"*²⁵

This law also regulates in detail the establishment of the protection order, enabling a civil mechanism for the protection of victims. It defines the types of protection orders, the procedure for requesting and issuing them by civil courts, the protective measures that may be included, as well as the obligation for inter-institutional cooperation in their implementation.²⁶ Protection orders, provided for in this law, aim to provide immediate safety for victims and prevent further contact or violence by the perpetrator, guaranteeing a direct and human rights-based approach to their protection.

In practice, the path of a domestic violence case can follow two parallel procedures: criminal and civil. In the criminal procedure, everything starts with reporting violence to the police, which must take immediate protective measures and refer the case to the prosecution. The prosecution investigates, files the indictment and pursues the case in court. The victim can be defended in the procedure by a personal lawyer, or by the Victims' Protection Office, within the prosecution. In the civil level, the victim can request a protective order or immediate protection. Both procedures can be carried out in parallel and require inter-institutional cooperation for full and coordinated protection.

The first and necessary step in any judicial monitoring is to ensure the strict implementation of procedural and substantive legislation. Only after assessing compliance with the law can monitoring go further to analyze the gender dimension, identifying prejudices, stereotypes and practices that may violate equality and the rights of victims. Only monitoring that combines the implementation of the law with a gender-sensitive analysis can contribute to building a fairer and more protective justice system for all.

19. Criminal Procedure Code of the Republic of Kosovo (2022). Available at: <https://gzk.rks-gov.net/ActDocument-Detail.aspx?ActID=61759>

20. Id., Article 229, paragraph 2.

21. Id., Article 224.

22. Id., Article 63, paragraph 1.4.

23. Id., Article 63, paragraph 1.21.

24. See definitions of Law No. 08/L-185 in Article 3. Available at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=83131>

25. Id., Article 3, paragraph 1.2.

26. Id., Chapter IV – Protective Measures and Procedure for Their Imposition

› Some key notions

Before monitoring court hearings, it is important to understand some of the fundamental concepts that shape how we interpret and view violence, justice, and institutional approach.

Gender mainstreaming

Gender mainstreaming is a practice that ensures that all laws, policies, and programs are designed and implemented in a way that takes into account the differences in needs and experiences between people of different genders. This does not mean treating every person "the same," but rather recognizing that people are affected differently by different phenomena based on their gender, and then adapting the system to respond to this difference.



According to the European Institute for Gender Equality, gender mainstreaming represents:

*"Systematic consideration of differences between the conditions, situations and needs of women and men in all actions and policies."*²⁷

■ **Example:** Due to traditional gender roles and the unequal division of unpaid care work, women may often face time or mobility constraints that prevent them from accessing legal aid services during standard working hours or centralized locations. Therefore, a gender-responsive legal aid program would offer mobile services, flexible hours, and presence in community spaces. This adaptation, by recognizing the structural barriers women face, would ensure more equal access to justice for women.

Intersectionality

Intersectionality is a framework that recognizes how different aspects of a person's identity, such as gender, race, ethnicity, age, sexual orientation, etc., intersect and create unique experiences of discrimination or privilege. In the context of justice and GBV, intersectionality helps us understand that not all victims experience harm in the same way.



According to the European Institute for Gender Equality, intersectionality is an:

*"Analytical tool for studying, understanding, and responding to how sex and gender intersect with other personal characteristics/identities and how these intersections contribute to unique experiences of discrimination"*²⁸

■ **Example:** A woman with disabilities experiencing violence may face multiple barriers to effectively reporting her case. She may lack physical access to public buildings such as police stations or courts, may lack adequate support to communicate if she has speech or hearing difficulties, and may be prejudiced by authorities as "unable" to provide credible testimony. These structural and societal barriers can directly impact her unique experience with justice.

A transgender woman who experiences violence because of her gender identity may face additional risks, including disrespect for her gender identity by the police and courts, placement in unsafe environments such as men's centers, and a lack of adequate psychological and legal support. She may experience institutional mistrust, prejudice, and exclusion that prevent her from having equal access to justice.

A Serb woman experiencing violence and living in an Albanian-majority municipality may face language barriers, institutional mistrust, and stigmatization due to her ethnicity. She may not feel safe reporting the case, be excluded from important information about rights and procedures in her native language, or face a lack of quality translation during hearings. These challenges may impact her willingness and ability to seek justice equally.

27. European Institute for Gender Equality, Glossary and Thesaurus. Accessible at: <https://eige.europa.eu/publications-resources/thesaurus/terms/1070>

28. European Institute for Gender Equality, Glossary and Thesaurus. Accessible at: <https://eige.europa.eu/publications-resources/thesaurus/terms/1050>

Stereotypes

Stereotypes are fixed ideas about a group of people that ignore individual differences and individual realities. In the context of gender, they refer to prejudices or expectations about how women or men should behave, look, speak, or live, based solely on their gender. These prejudices, when applied to the justice system, result in biased treatment and re-victimization.

■ **Example:** A prosecutor questions the credibility of a rape victim based on her clothing style. Or a judge presumes that because a woman has returned to live with her abuser, she was not a victim of violence at all, implying that she exaggerated the case before the court.



According to the European Institute for Gender Equality, a gender stereotype is defined as:

“The practice of attributing certain traits, characteristics, or roles to women or men solely on the basis of her or his membership in the social group of women or men.”²⁹

Secondary victimization (or re-victimization)

Secondary victimization (re-victimization) occurs when a victim of violence is repeatedly harmed emotionally, psychologically, or institutionally by the way the institution or system handles her/his case. This occurs, for example, when the victim is forced to repeatedly testify about the violence, face prejudice from the system, lack of support, or other procedures that re-instate her/his trauma.

■ **Example:** During a GBV trial, the victim is asked to mention sensitive details from the case several times, by different legal professionals, e.g., the police officer, the prosecutor, and then again in court. Each time, the questions are biased, focusing on the victim's behavior rather than the perpetrator's actions. At one point, the perpetrator's defense attorney suggests that the victim “provoked” the violence and the judge does not intervene. Also, before the hearing, the victim is forced to sit in the same place with the perpetrator, having direct contact with him, causing obvious distress. This situation creates harm beyond the initial abuse, the victim feels humiliated, blamed, and insecure, constituting a secondary victimization by the justice system, and creates trauma (even when this is not intended).



According to the European Institute for Gender Equality,

“Secondary victimization occurs when the victim suffers further harm not as a direct result of the criminal act, but because of the way in which institutions and other individuals treat the victim. Secondary victimization can be caused, for example, by the victim's repeated exposure to the perpetrator, repeated interrogation about the same facts, the use of inappropriate language, or insensitive comments made by all those who come into contact with the victims.”

A victim-centered approach

A victim-centered system places the needs, rights, and dignity of the victim at the center of every stage of the legal process, from reporting to final judgment. This means that all procedures, decisions, and interactions are designed to minimize harm and respect the victim. A victim-centered approach includes:

- Ensuring that victims are treated with respect, empathy and dignity;
- Providing clear information about victims' rights and the process as a whole
- Minimizing re-traumatization through careful interrogation, protective orders, and gender-sensitive judicial process.
- Empowering victims to participate voluntarily in the judicial process, without pressure or victim blaming.

➤ The Istanbul Convention obliges parties to ensure that the rights of victims are placed at the center of all measures taken against violence.

²⁹.European Institute for Gender Equality, Glossary and Thesaurus. Accessible at: <https://eige.europa.eu/publications-resources/thesaurus/terms/1371>

› What should we look at in court hearings?

In addition to the strict implementation of procedural and meritorious legislation, the following issues with a gender dimension should also be monitored:

1. Presence and treatment of victims

The presence and treatment of victims in court directly impacts their safety, dignity and willingness to participate in the judicial process. The courtroom should not be an intimidating or closed space for victims, but rather one that provides support, safety and respect. Particular attention should be paid to the way in which legal professionals address and involve victims in the process, and whether the physical environment and interactions support a gender- and trauma-sensitive approach.

Some guiding questions that help in assessing this area:

- Are the victims present?
- How are they being treated by legal professionals? – Monitor behavior, tone, and body language
- Is the courtroom environment victim-friendly? - The environment can empower or silence victims.
- Are victims being protected from unnecessary contact with perpetrators?
- Do victims have adequate protection? If protection is provided by VPOs, are they active in protection and do they inform victims of their rights?

2. Language and approach by legal professionals

The language used and the way legal professionals interact with victims have a major impact on the victim's experience and on the fairness of the process. Language carries attitudes, beliefs and often unconscious biases. In cases of gender-based violence, the use of sensitive, respectful and non-blaming language is essential to avoid re-traumatization and to ensure a fair process. Furthermore, unconscious biases towards gender, "expected" behavior or the traditional family roles of women and men can influence both the assessment of the credibility of the parties and the way the hearing is conducted. Monitoring these elements helps to identify practices that may harm victims and reinforce gender inequality.

Some guiding questions that help in assessing this area:

- Is the language used in court sensitive to victims? Is discriminatory language used? Language reflects institutional attitudes towards gender roles and credibility.
- Is the language used blaming or minimizing the victim's experience?
- Are there stereotypes about "typical" behaviors of women or men in relation to the case? Stereotypes are prejudices, and as such affect fair and impartial treatment.
- Are victims interrupted when they are talking?
- Are there interactions between victims and perpetrators during the hearings? If so, does the judge intervene to enhance the victim's safety?
- Are victims portrayed using gender stereotypes?
- How do lawyers, translators, and social workers treat victims?

3. Sensitivity to trauma

GBV leaves deep psychological and emotional consequences for victims, which may emerge during the judicial process. Therefore, legal professionals must demonstrate sensitivity to trauma and strive to ensure that proceedings do not aggravate the emotional state of the victim. The lack of this sensitivity risks re-victimization. Also, allowing questions that blame or belittle the victim undermines the process and seriously damages the integrity of the victim. Monitoring these elements is essential to assess whether the court ensures a careful, dignified and sensitive approach to the painful experiences of victims.

Some guiding questions that help in assessing this area include:

- Do judges, prosecutors, and legal professionals demonstrate sensitivity to trauma during interrogations and interactions with victims?
- Is there sensitivity to potential re-traumatization? Is attention paid to the victim's emotional state, is she given rest, water, etc.?
- Are defense attorneys for defendants allowed to ask questions that directly attack the trauma of victims?

4. Procedural aspects

Justice delayed is often justice denied, especially for victims of GBV, for whom protracted court proceedings can mean ongoing stress, uncertainty, housing problems and trauma treatment. Monitoring procedural aspects helps us understand how effectively and sensitively the justice system is functioning in relation to the victim. Frequent delays, lack of updates for victims, and practices such as referral to mediation when there is violence can damage victims' trust in institutions and prevent their real access to justice.

In addition to compliance with the Criminal Procedure Code and the Civil Procedure Code, the following elements may also be addressed:

- How often are court hearings being scheduled? Are there frequent postponements of hearings?
- How many sessions are needed for cases to be resolved?
- Are victims updated and involved in the process?
- Are victims referred to mediation, or is "reconciliation" between the victim and the perpetrator mentioned as an option?

5. Participation of other marginalized groups

To ensure equal justice for all, monitoring should assess whether the justice system takes into account the specific needs of marginalized groups. Women from non-majority communities, people with disabilities, children, or victims who do not speak the official language often face additional barriers in accessing justice. Lack of interpretation, physical access to institutions, or disregard for age or health status can exclude victims from the process or make them feel invisible.

Some guiding questions that help in assessing this area include:

- Are translation and interpretation services available when victims do not speak Albanian?
- Is the court accessible to people with disabilities?
- Are children included and are their needs met?

› What should we look at in judgments?

Judgments represent the final moment of the judicial process and provide direct insight into how courts interpret the law, understand GBV, and approach the victim. Through their analysis, we can understand whether judicial decisions are built on stereotypes, lack of gender sensitivity, or unequal approaches to the parties. Monitoring judgments helps to highlight the court's systematic approach to gender-sensitive justice.

In addition to the strict implementation of procedural and meritorious legislation, the following issues with a gender dimension should also be monitored:

1. Judicial reasoning and language used

The language and reasoning used in judgments should be given special attention, as they reveal the court's attitude towards the crime and the victim. The use of mitigating circumstances for the perpetrator, such as an apology or repentance, or the treatment of self-defense as reciprocal violence, can lead to the normalization of violence and the failure to protect victims.

Some guiding questions that help in assessing this area include:

- What is the reasoning provided for the type of punishment?
- What are the mitigating circumstances used in the reasoning?
- Are "apology" and "repentance" being used as mitigating circumstances? Does this happen even if we are dealing with recidivism? Is "repentance" being evaluated in any way by the court, or is it just taken as lip service?
- Are there cases where both people are found guilty of domestic violence, even if the victim attacked/injured the perpetrator in self-defense?

2. Recognizing recidivism and abuse trends

To ensure effective and long-term protection for the victim, it is vital that the court identifies and treats violence as a pattern of repeated behaviour and not as an isolated incident. In many cases of GBV, particularly in the context of domestic violence, violence occurs cyclically, with the risk escalating over time before it is reported. If the judgment fails to record the perpetrator's history of violent behaviour, then not only the credibility of the deci-

sion is at risk, but also the safety of the victim after the trial. Failure to recognize recidivism can lead to lenient sentences that do not reflect the real risk posed by the perpetrator. It may also be the case that the court does not recommend protective measures or does not apply aggravating circumstances in the sentence, ignoring repeated patterns of violence.

Some guiding questions that help in assessing this area include:

- Does the verdict mention whether the perpetrator has a history of violence?
- Is previous behavior or ongoing violence recognized as an aggravating circumstance?

3. Understanding gender-based crime, assigning blame and responsibility

The proper assignment of blame and responsibility is essential to preserve the integrity of the justice system and to ensure victims' trust in judicial institutions. Judgments that, either directly or indirectly, attribute responsibility to the victim, for example by suggesting that she provoked the violence, or by raising doubts about her character and intentions, demonstrate a profound lack of understanding of the nature and context of GBV. Such an approach not only risks re-traumatizing the victim,

but also creates precedents that discourage reporting of similar cases in the future. In judgments, judges should demonstrate clarity when assigning responsibility and avoid any rhetoric or logic that reinforces gender stereotypes, ensuring that guilt is based on clear evidence and an impartial analysis of the facts.

Some guiding questions that help in assessing this area include:

- Does the court place blame on the victim (suggesting that they provoked the violence)?
- Is the victim portrayed as untrustworthy, or emotionally unstable?
- Is the victim blamed for not reporting earlier, or for continuing to live in a violent environment? Is this mentioned to the victim's detriment?
- Does the judgment reflect an understanding of the power dynamics in the GBV? Does it treat violence as a private or family matter, rather than a form of exercising control?
- Does the court address the impact of violence on the victim?

4. Definition of legal concepts

The way legal concepts are interpreted in judgments has a major impact on the experience of victims and the realization of substantive justice. Terms such as "consent" or "provocation" are not harmless when used without a gender-sensitive meaning. The use of "provocation" as a mitigating circumstance in cases of domestic violence, for example, can contribute to blaming the victim and reducing the responsibility of the perpetrator. Likewise, the lack of a clear and comprehensive interpretation of the concept of "consent" often leads to decisions that do not

reflect the reality of victims, especially in sexual violence. In many cases, courts continue to base the assessment of consent solely on whether the victim physically resisted, ignoring contexts where the victim said "no", froze in fear, or felt unable to object. This approach excludes the many experiences of victims who are unable to react physically and minimizes violence that does not leave physical marks but is just as real and harmful.

Some guiding questions that help in assessing this area include:

- In crimes against sexual integrity, is the interpretation of "consent" consistent with its definition in the Criminal Code?
- Is the law interpreted with anti-discrimination standards?
- Is the practice of the ECHR, or international standards of legal rights, referenced in the judgments?

5. Further protection of the victim

A judgment that reflects gender equity does not end with the determination of the perpetrator's guilt or innocence, but it must also ensure the protection and well-being of the victim after the process is over. This includes continued physical and emotional security, as well as facilitating access to institutional and social support mechanisms.

Courts that do not address the aspect of victim protection, particularly in cases of gender-based violence, risk leaving room for sustaining violence or re-traumatization.

Some guiding questions that help in assessing this area include:

- Is protection and provision of security for the victim mentioned in the judgement?
- Does the court recommend/facilitate access to various services for victims? (Shelter, psychological support, etc.)
- Is compensation provided where applicable?
- Are protective orders issued based on a judgment?
- Are there any risk assessment strategies or monitoring measures proposed?





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