Victim A

GBV Victim

Path goal: no longer suffer violence; be believed by authorities and community and/or wish punishment of the perpetrator

Steps in the Judicial Process

[Case Registration Number]

CRIMINAL INVESTIGATION

PROSECUTION

TRIAL

APPEAL

SENTENCE ENFORCEMENT

Steps with Victim/Survivor's Involvement

- Contact with Specialized Services — NGO, Public Defender or Lawyer
- Report or Complaint — Police or Public Prosecution
- Statement Taking — Police or Public Prosecution
- Physical Safety: Access to Shelter — NGO; Removal of the Suspect from Home — Public Prosecution and Court
- Medical Examination — NGO & Medical Unit
- Statement Taking — Public Prosecution or Police
- Suspect's Detention; 1st Suspect Declaration (Before Court); Evidence Collection; Investigation Report; Indictment
- Notification of the Indictment or Archiving — Prosecution
- Assessment of the Indictment; Rebutal of Indictment
- Statement before the Judges
- Trial Hearing Continues; Trial Hearing Continues
- Crime Scene Inspection
- Joint Cross-Examination (acareação)
- Final Hearing
- Delivery of Judgment (and sentence)
- Appeal; Appeal
- Re-Trial
- Suspende d Sentence; Payment of Compensat ion
- Parole

Victim/Survivor's Feeling

Frequent Challenges Faced by the Victim/Survivor

- Conducting mediation as a dispute resolution, **discouraging the victim** from submitting information to the authorities (even knowing the nature of the public crime)
- Victim **confused** about whether the process is optional or not because the victim is asked whether or not she wants to continue with the case (despite it being a public crime)

- Challenges to ensure the **confidentiality** of the facts and/or victim's identity
- Victim subjected to **gender stereotypes** during the interview reinforcing feelings of guilt and trauma
- **Trauma and fear** impact the victim's ability to make a coherent statement

- Lack of **consideration of the victim's personal needs** as to shelter (practical difficulties in securing effective consent)
- **Lack of confidence** on the part of the victim's family to provide support ends up influencing the victim's decision to go to a shelter (more relevant with child victims of sexual violence)
- Negative impact on the **education** when child victims in shelters
- "**Moving the victim away**" from the community (to a shelter) may result in the community's perception of guilt resting with the victim

- Victim does not effectively understand the impact of her **consent**
- **Victim's inexperience in undergoing medical treatment**, resulting in trauma or doubts as to the purpose and consequences of the medical examination

- **Fear of being arrested** for doing "something wrong" (lack of knowledge about the process and/or being "threatened" by the Public Prosecutor or police)
- Victim subjected to gender **stereotypes** during the statement taking reinforcing feelings of guilt and trauma
- Public Prosecutor or court official responsible for the inquiry "asks" the victim whether or not she wants to **continue with the case** (despite it being a public crime)

- Victim does not receive information about **the progress of the procedure** and evidence collection efforts
- Potential to be the target of **threats** when authorities gather evidence from others

- Victim does not receive information about **the progress of the proceedings** and about evidence collection efforts
- Potential to be the target of **threats** when authorities gather evidence from others
- Victims unaware of power (or without access to support) to **challenge the archival of investigation**

- Delivery of the notification to the victim does not ensure **confidentiality/anonymity**

- Victim receives **last-minute notice** of the hearing date
- **Long waits, adjournment** and no proper place while waiting for the hearing in court building
- **Lack of empathy** with the position of the victim (e.g. need for breastfeeding, break, ask victim's views)
- Rejection of **request for psychosocial support** by the victim during the hearing
- Use of **stereotypical language** based on negative gender norms
- Questioning the **victim's sexual history**
- Lack of **knowledge of the proceedings** (especially when without legal support) by the victim
- **Repetition of questions** to the victim (method to identify "lies")

- Difficulties in **continued participation in the trial** (lack of information, limited transport, lack of psychosocial support, etc.)
- **Stereotypical or insensitive media coverage** towards GBV subject matter
- **Delay** in concluding the trial (adjournment of hearings)
- Victim with additional **fear and shame due to participation of other individuals** (observers, for example) when hearing closed to the public

- Lack of participation in **crime scene inspection,** or participation without clear information about procedure, or challenges to ensure confidentiality during inspection
- Use of **joint cross-examination** in cases of sexual crimes, without regard to the victim's feelings/reality

- **No opportunity to participate** in the hearing at the time of the defendant's final statement
- No opportunity to make **final statements** for the purpose of promoting adequacy of the sentence

- **No opportunity to participate** in the hearing in which the sentence is read out due to lack of information (when not accompanied by specialized services)
- No clear opportunities to **appeal** when the decision is not satisfactory
- Hearing **open to the public** without attention to securing confidentiality of identity of victim
- **Compensation** without responding to the victim's suffering
- Criminal case not corresponding to the **victim's family area/law** reality (regulation of parental authority, divorce, alimony, access to marriage property, etc.)
- Challenges in **reintegration** of the victim when host in a shelter (eg guilt on the victim, allegations of witchcraft, constant concerns about safety, etc.)

- **No clear opportunities** to appeal when the decision is not satisfactory
- **Lack of knowledge** of the existence or not of an appeal (including when accompanied by a specialized service)
- Appeal process often without a hearing and without victim **participation**
- **Delay in the appeal** with difficulty in understanding when the guilty sentence and when release of defendant (when not in pre-trial detention)

- **Re-traumatization** of the victim with renewal of evidence
- **Questions** about the efficiency of the proceedings
- **Long process** and diminished sense of justice
- Limited **reintegration** of victims living in shelters

- Lack of understanding of the **non-custodial sentence**
- Not **receiving payment of the compensation** (and difficulties in demanding enforcement of the compensation award)
- No opportunities to receive **financial support from the State** in the event of non-payment of compensation

- No knowledge of the convict's **imminent release**
- **Fear** of the convict's imminent release

Institutional Barriers within the Justice System

- **[Police] Unavailability** of police to receive a complaint or accusation (due to absence from work, discriminatory action, lack of commitment/interest, etc.)
- **[Police] Ask victim if she wants to continue** with the case (despite it being a public crime)

- **[Police/PP] Incorrect or incomplete reproduction** of the information provided in the victim's declaration
- **[Police/PP] Place to provide a statement** does not guarantee the victim's confidentiality and well-being
- **[Police/PP]** No physical and procedural guarantees to ensure the **confidentiality** of information
- **[Police/PP] Limited ability** to interview child victims
- **[Police/PP]** Lack of understanding of the need for the victim's **effective consent** to refer to support services

PP: Public Prosecution

- **[Police/PP]** Limited use of the **suspect restraining order** as the preferred option when the victim's physical safety is at risk

- **[PP] Automatic order/instruction to carry out a medical examination** in cases of sexual or physical violence without analyzing in detail the facts and the relevance or not of a medical examination
- **[PP]** Often **medical exam order** is not written and forensic service ends up not knowing what to focus on during the exam
- **[PP/Support Service]** The victim and/or his/her legal representative are not provided with a **copy of the medical examination**
- **[Support Service]** Examination without detailed information about the victim's **psychological state**

- Protocol for Forensic Doctors

- **[PP] Does not establish a rapport**/trust relationship with the victim (due to limited capacity, stereotypes and a vision of the victim as a "tool"/"subject matter" of the PP)
- **[PP]** No action taken to **accommodate the victim's reality** due to lack of sensitivity to the victim's situation (fear, confidentiality, trauma, lack of information, etc.)
- **[PP] Threat to detain or arrest** the victim "if you don't tell the truth"
- **[PP] 'Future Memory' Mechanism** not used effectively in sexual violence cases to prevent victim "re-victimization"

- **[PP] Limited or passive investigation** technique
- **[PP] Lack of delegation of powers** to the Police (delegating to the clerk the interview with victims and witnesses)
- **[PP] Delegation of powers** without identifying the evidence to be collected
- **[PP]** Does not ask the shelter for a **"social report"** on the assistance provided to the victim
- **[PP]** Decision to request or not an **arrest warrant** without considering the impact on the victim
- **[PP]** Lack of rapport/relationship with the victim does not allow identifying the existence of other crimes (against the victim or someone else)
- **[PP/Court]** Limitations of the legal framework for **witness protection** and limited investment for its implementation
- **[PP/Court]** Resistance or lack of understanding about the involvement of the **victim's legal representative**

- **[PP] Charges of limited quality** (e.g. concurrence of crimes vs continued crimes, legal qualification, description of facts based on stereotypes, etc)
- **[PP] Compensation claim** without determination of amount or based on myths about consequences of the crime
- **[PP] Archiving of investigation** as a consequence of passive investigation
- **[PP] Notification of prosecution** directly to the victim (even when with legal representation) bringing challenges to safety, and difficulties in finding the victim
- **[PP]** Resistance or lack of understanding about the involvement of the **victim's legal representative**

- **[Court]** Analysis of acceptance of indictment without following the legal requirements (eg determination of "**manifestly ill-founded**" charges)
- **[Court] Acceptance of poor quality indictment** puts on Court with the burden to ensure procedure will reflect the seriousness of the alleged crimes

- **[PP/Court]** When **confession by the accused**, lack of uniformity in the criteria for determining the need for the victim's testimony
- **[Court]** Limited ability to use **effective mechanisms to collect useful testimony/information** without re-victimization (use of repetition questions)
- **[Court]** Limited ability to take **statements from children**
- **[Court]** Lack of intervention in the case of **offensive and stereotyped questions** by the defense
- **[PP/Court/Defense] Constant doubts** about the veracity of the victim's testimony when assisted by a legal representative (often treatment as a "hostile" witness)
- **[PP/Court/Defense]** Questions about **victim's sexual history**

- **[PP/Court]** Limited use of **experts** in areas relevant to GBV
- **[PP/Court]** Lack of **DNA testing** in Timor-Leste
- **[PP/Court]** Identification of **new witnesses** during the hearing due to limited quality of prosecution
- **[Court]** Decision to allow external participants to join closed hearing **without consultation with victim**
- **[PP/Court]** Need to **modify the legal classification** of the crime
- **[Court] New facts** revealed during trial due to poor investigation
- **[Court]** In hearings closed to the public, lack of uniformity about the **presence of victims/their representatives**
- **[Court]** Delay in drawing up the **minutes** of the hearings
- **[PP/Victim Representative] Limited use of interlocutory appeal** to ensure quality of prosecution

- **[Court] Crime scene inspection** used unnecessarily or not used when needed
- **[Court/Defense] Joint cross-examination** performed as a way to determine the veracity of female victim's statement (no uniform legal criteria)
- **[PP/Rep. Victim]** Lack of use of **interlocutory appeal** to demand compliance with basic principles of victim rights

- **[PP] Closing arguments** of limited quality, not serving as support for the Court's deliberation process
- **[Court/PP]** Difficulty in understanding the **victim's reality** - challenges in securing a sentence in response to a specific case (victim is not given the floor, nor submits a written statement)
- **[Court/PP] No knowledge of the true impact** of Trauma on the victim
- **[Court/PP/Defense]** There is no discussion about the **convict's ability to pay compensation**

- **[Court]** Sentence affords more **credibility** to males than females
- **[Court]** Sentence does not consider the **battered woman syndrome** and gives weight to the defendant's justification of violence
- **[Court]** Sentence using **stereotyped language**
- **[Court]** Lack of determination of **concurrence of crimes** and/or incorrect use of continued crime
- **[Court]** Sentence does **not include new facts** revealed during trial
- **[Court]** Penalty does not reflect the **seriousness** of the crime and incorrectly applies rules of **concurrence of crimes**
- **[Court] Compensation** does not reflect case specificity, is based on gender norms, and does not represent reparation
- **[PP/Court]** No request/application of relevant **accessory penalties**
- **[PP/Court/Rep. Victim] Civil-family matters** not dealt with the criminal proceedings

- **[Court] Judgment is not delivered** with the case files in a timely or adequate manner for a fast appeal request
- **[PP]** Low quality **appeal petition** (especially when coming from defense)
- **[Court/Legal Representative]** Doubts about the **injured party's standing** (ie. victim) to submit an appeal (and few attempts)
- **[Court]** Lack of awareness to maintain **confidentiality** of victim's identity in Court of Appeal ruling

- Same challenges faced when making a statement during the trial

- **[Court]** No **monitoring of suspension** of prison sentence
- **[Court]** Need to file a new civil claim to demand **compliance with compensation payment** (enforcement proceedings)

- **[Court]** Failure to **notify the victim** of the defendant's imminent release (without any effort from a social perspective to ensure the victim's physical and psychological safety upon release of the convict)
- **[Court]** Delay in the **settlement of time served** brings insecurity about the deadline for the victim's future

Registration Documents of the Procedural Steps

- *Notice of Complaint (annex other documents collected when the notice was made)*

- *Delivery Slip (from Police to PP, if complaint made to the Police)*

- *Order of the PP for the Opening of the Criminal Investigation*
- *Term of Identity and Residence (set template)*

- Arrest Warrant Request
- Arrest Warrant (set template)
- Certification of Status as a Defendant (set template)
- Minutes of the First Interrogation
- Judge's Order on Coercive Measures
- Order of Regular Presentation (set template)

- Minutes of victim's statement (when in the Police)

- Order of Delegation of Powers/Instructions for Evidence Collection from the PP to the Police
- Final Investigation Report (when powers delegated to the Police)

- Indictment (Notification to the victim and defendant)
- Archival Order (Notification to the victim and defendant)

- Hierarchical Appeal against Archiving Order (by the victim or superior at the PP)
- Decision on Hierarchical Appeal

- Court Order on Receipt of the Indictment (and submission to trial)
- Rebuttal to the Indictment (written defence)
- Appointment of Trial Hearing Date

- Interlocutory/urgent Appeal Request (if applicable)
- Interlocutory/urgent Appeal Decision

- Court Orders dictated for the Hearing Minutes

- Court decision/verdict Summary
- Order for release of accused in the cases of preventive detention and sentence of acquittal

- Request/Memorandum of Appeal
- Rebuttal (written reply to Appeal)
- Appeal Judgment/Court Decision

- Request/Memorandum of Appeal
- Rebuttal (written reply to Appeal)
- Appeal Judgment/Court Decision
- Arrest order (when sentenced to effective imprisonment)

- Order for Settlement of Time Served
- Release Order