

Training Resources on Justice Reform and Gender

Gender and Security Sector Reform Training Resource Package



Geneva Centre for the
Democratic Control of
Armed Forces (DCAF)

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The Gender and Security Sector Reform Training Resource Package

The Gender and Security Sector Reform Training Resource Package is a companion to the *Gender and SSR Toolkit* (DCAF, OSCE/ODIHR and UN-INSTRAW, 2008). Copies of the *Gender and SSR Toolkit* can be downloaded or ordered at <http://www.dcaf.ch/gssrtoolkit>

The Gender and SSR Training Resource Package is a series of practical training materials to help trainers integrate gender in SSR training, and to deliver effective gender training to SSR audiences.

The first part of the Training Package is a "Guide to Integrating Gender in SSR Training", which provides useful information on how to take into account gender issues throughout the SSR training cycle.

The rest of the Training Resource Package is focused on particular SSR topics:

- Security Sector Reform and Gender
- Police Reform and Gender
- Defence Reform and Gender
- Parliamentary Oversight of the Security Sector and Gender
- Civil Society Oversight of the Security Sector and Gender
- National Security Policy-Making and Gender
- **Justice Reform and Gender**
- SSR Assessment, Monitoring and Evaluation and Gender
- Border Management and Gender
- Penal Reform and Gender

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DCAF

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Contents

USING THE GENDER AND SSR TRAINING RESOURCE PACKAGE	1
KEY MESSAGES	4
TRAINING EXERCISES	7
Exercise 1 Bricks in the wall: barriers to access to justice	7
Exercise 2 Gender-sensitive justice reform: visualizing the scope of the task	9
Exercise 3 Dealing with resistance to gender issues	12
Exercise 4 SWOT analysis: promoting gender-sensitive reform in your organisation ..	15
Exercise 5 Strategies for change	18
Exercise 6 Making law schools gender-sensitive	20
Exercise 7 Gendered participation in the justice sector	21
Exercise 8 Creating a partnership forum for gender-sensitive justice reform	22
Exercise 9 Identifying sex discrimination in law and practice	25
Exercise 10 Traditional practices and national law: educating and implementing	31
Exercise 11 Debate: co-existing forms of justice	34
Exercise 12 Role play: Setting up legal aid clinics for victims of SGBV	37
Exercise 13 CSO strategising	45
DISCUSSIONS.....	49
TRAINING CHALLENGES TO CONSIDER	51
EXAMPLES FROM THE GROUND	52
ADDITIONAL TRAINING RESOURCES	60

Using the Gender and SSR Training Resource Package

A gender-responsive justice reform process seeks to:

- » Establish a fair, accessible, trusted and accountable justice sector for all groups within society
- » Promote gender equality
- » Ensure equal access to judicial processes
- » Identify and address problems and gaps within existing laws, mechanisms and processes which impede justice and security for men, women, boys and girls

Security sector reform (SSR) transforms security policies, institutions and programmes. The integration of gender issues in SSR—by taking into consideration the different security and justice needs of women, men, boys and girls and strengthening the participation of women and men in security decision-making—is increasingly being recognised as key to operational effectiveness, local ownership and oversight. As a result, countries undergoing SSR, as well as donor nations and international organisations supporting SSR processes, have committed to implementing SSR in a gender-responsive way.

In order to support gender-responsive SSR, DCAF, OSCE/ODIHR and UN-INSTRAW published, in 2008, the **Gender and Security Sector Reform Toolkit**.^{*} The Toolkit is a practical introduction to gender and SSR issues for policymakers and practitioners. It sets out why gender is important to SSR processes and gives concrete recommendations and examples. The Toolkit is composed of 12 Tools and 12 Practice Notes on different SSR topics, such as police reform, defence reform, parliamentary oversight and civil society oversight.

The publication of the *Gender and SSR Toolkit* prompted a strong demand for materials to support training on gender and SSR issues. This **Gender and SSR Training Resource Package** has thus been developed as a companion to the *Gender and SSR Toolkit*. The *Training Resource Package* is a series of practical training materials to help trainers integrate gender in SSR training, and deliver effective gender training to SSR audiences.

The Training Resource Package

The first part of the *Gender and SSR Training Resource Package* is the **Guide to Integrating Gender in SSR Training**. This Guide provides useful information on how to take into account gender issues throughout the SSR training cycle: in training needs assessment, learning objectives, design and development of training, implementation, monitoring, evaluation and follow up.

The rest of the *Gender and SSR Training Resource Package* is divided into sets of resources focused on particular SSR topics:

- **Security Sector Reform and Gender**
- **Police Reform and Gender**
- **Defence Reform and Gender**
- **Parliamentary Oversight of the Security Sector and Gender**
- **Civil Society Oversight of the Security Sector and Gender**
- **National Security Policy-Making and Gender**
- **Justice Reform and Gender**
- **Border Management and Gender**
- **SSR Assessment, Monitoring and Evaluation and Gender**

Copies of the *Gender and SSR Toolkit* can be downloaded or ordered, on CD ROM or in print, at: <http://www.dcaf.ch/gssrtoolkit>

* DCAF is the Geneva Centre for the Democratic Control of Armed Forces

* OSCE/ODIHR is the Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights

* UN-INSTRAW is the United Nations International Research and Training Institution for the Advancement of Women

Using the Gender and SSR Training Resource Package

Each set of training resources contains the following:

Key messages: taken from the companion tool in the *Gender and SSR Toolkit*.

Training exercises: 10–19 exercises covering a range of possible subjects, methodologies, audiences and durations. Each exercise is organised under the following headings:

- *Type of exercise*
- *Audience*
- *Time required*
- *Intended group size*
- *Supplies*
- *Guidance to trainers*
- *Learning objectives*
- *Exercise instructions*
- *Handouts, worksheets and trainer's cheat sheets (if applicable)*
- *Possible variations (if applicable)*

Examples from the ground: short case studies that can be used as a resource for training.

Discussions: possible gender and SSR discussion topics, and tips on how to make discussions effective.

Training challenges to consider: additional challenges to those discussed in the *Guide to Integrating Gender in SSR Training*.

Additional training resources.

The trainees

These training resources take into account the many different types of audiences for SSR training. Your trainees might be from a country undergoing SSR or a donor country supporting SSR, or from different countries. They may be from the same institution or from many. They may be experienced in SSR or not.

Your SSR trainees might include, for example, representatives of:

- Ministries of Defence, Justice, Interior or Foreign Affairs
- Security sector institutions, e.g., police services, armed forces, border management services, justice and penal institutions
- Parliaments, including both parliamentarians and parliamentary staff
- Security sector oversight bodies, e.g., office of the ombudsperson and national security advisory bodies
- Civil society organisations (CSOs), including international, national and local organisations and research institutions that focus on security sector oversight and/or gender, including women's organisations
- Donors, international and regional organisations such as the United Nations, Organization for Security and Co-operation in Europe, European Union or African Union

Each set of training resources contains exercises suitable for different types of audience. Many of the training exercises can also be adapted to fit your specific group of trainees.

Using the training exercises

The greater part of the *Gender and SSR Training Resource Package* is made up of training exercises. These exercises are designed to help you to deliver training on gender and SSR issues in an engaging and interactive manner. You will find exercises in the form of action planning, role plays, stakeholder analysis, SWOT analysis, case studies, gaps

Using the Gender and SSR Training Resource Package

identification, mapping, and many other formats. Icebreakers, energisers and introductory exercises on gender are in the *Training Resources on SSR and Gender*.

The exercises focus on either one or a number of SSR issues. Some focus on particular gender issues (such as recruitment of women or addressing gender-based violence). Others are on general SSR issues in which skills to integrate gender are needed (such as consultation or project planning). The exercises can therefore be used either in a:

- Gender and SSR training session, e.g., Police Reform & Gender, Parliamentary Oversight of the Security Sector & Gender; or
- SSR training session not explicitly focused on gender.

A sample outline of a gender and SSR session and a sample schedule for a two day gender and SSR training are included in the *Guide to Integrating Gender in SSR Training*.

The exercise formats are not designed to be prescriptive but to spark your creativity as a trainer. We encourage you to adapt them to meet your training objectives, audience, subject matter emphasis, available time and your own needs. You can use the *Gender and SSR Toolkit* to provide background information on a wide range of gender and SSR-related topics.

The exercises are not designed to be used "in order" or as a "module." Instead, the *Training Resource Package* is designed to provide you with a diverse set of exercises that you can combine and adapt to suit the particular needs of your training.

When selecting an exercise, keep in mind:

- What are your learning objectives? Which exercise best meets these objectives?
- Who are your trainees? How many are there? Is this exercise appropriate for their level of experience?
- Does this exercise fit your timeframe?
- How could you modify the exercise to better fit your learning objectives, trainees and available time?

The exercises are organised in three categories: (1) application-in-context, (2) conceptual and (3) topic-specific.

- *Application-in-context exercises* are designed to allow trainees to apply the principles of SSR and gender to their own real world organisations, or to real or simulated cases that are used as learning aids. In general, these exercises are best suited to audiences with broad policy-level responsibilities and experience; however, depending on the subject matter and training needs and objectives, any audience could benefit from participation in these exercise formats. From a pedagogical viewpoint they are probably the most effective exercises (fastest learning), as the primary goal of each exercise is to allow trainees to explore and internalise key concepts by applying them to their own contexts.
- *Conceptual exercises* focus on wider concepts and theories, aiming for a broad understanding of the key message being pursued. These exercises are best suited to audiences with detailed programme-level responsibilities and experience (in order to broaden their perspective), or those with more senior-level policy responsibilities.
- *Topic-specific exercises* focus on a particular key point which requires training. These types of exercises would be best suited to an audience that has a specific training need or is composed largely of trainees who are new to the concepts of gender and SSR.

The point of this *Training Resource Package* is to help you to improve your gender and SSR training while being creative with the materials presented. Used together with the *Gender and SSR Toolkit*, we hope that it will encourage you to include gender as a key aspect of all your SSR training.

Key messages

As a trainer you must consider how best to provide essential content to your audience. Any training exercise will generally need to be preceded by a brief lecture conveying key points and ensuring that all in your audience share the required knowledge base. Refer to the sample session outlines in the *Guide to Integrating Gender in SSR Training*.

The following key messages are drawn from the *Justice Reform and Gender Tool*. In planning your session, consider selecting a few key messages and re-phrasing and shortening them to PowerPoint slides or some other form of learning aid.

These key messages are designed to help you formulate training content. They do not substitute for reading the companion tool itself. Each trainee should be encouraged to read the *Justice Reform and Gender Tool* and/or *Practice Note* before undergoing the training in question.

Justice reform

Justice reform includes:

- reform of laws
- development of policies, procedures and mechanisms for the implementation of laws
- initiatives and practices to improve access to justice
- training and education for justice sector practitioners
- strengthening of monitoring and accountability mechanisms
- state and non-state (customary) legal systems

Justice reform is undertaken in order to develop:

- a constitution and laws based on international standards, including human rights law and the rule of law
- an effective, impartial and accountable judiciary, and prosecution and defence services
- a system for interpreting laws and resolving conflicts among different bodies of law
- an integrated approach to criminal justice among the various parts of the justice sector
- effective mechanisms for oversight of the justice system

Gender and justice reform

Gender must be integrated into justice reform to:

- address *discrimination in the law*, e.g., discriminatory laws with regard to land ownership, inheritance, gender-based violence (GBV), sexual orientation, child custody, employment and cultural practices
- address *discrimination in application of the law*, such as interpretation of legal codes and administration of procedures
- address *gaps in the law* that make discriminatory practices possible
- comply with *international human rights law*, in particular with the Convention on the Elimination of All Forms of Discrimination Against Women and United Nations General Assembly Resolution 52/86 (1998) on Crime Prevention and Criminal Justice Measures to Eliminate Violence Against Women
- ensure *equal access to justice for all* and, in particular, to address the barriers to justice faced by women, by lesbian, gay, bisexual and transgender (LGBT) people, and by victims of GBV
- ensure *equality before the law* for all
- ensure the considerations of *ALL members of society* – including women, LGBT people and minorities – are represented in reform efforts
- offer *opportunities for broad participation* in the reform process and in the justice sector
- create a *representative, legitimate and trusted* justice sector, including women at every level
- strengthen *oversight, monitoring and accountability* of the justice sector

See pages 1–6 of the
*Justice Reform and Gender
Tool*

See pages 6–16 of the
*Justice Reform and Gender
Tool*

Key messages

Strategies for the integration of gender in justice reform

Before engaging in the reform process:

- Conduct a gender assessment of the justice system and/or include gender throughout the assessment

During the reform process:

Participation

- Make the justice reform process participatory and reflective of the diversity in society. Include stakeholders from the judiciary, prosecution authority, law associations, law schools, police, prisons and civil society, as well as victims of crime. Include underrepresented groups such as women, LGBT people and minorities.

Gender-responsive law reform

- Accede to and ratify international and regional human rights treaties and conventions, and implement the obligations under them
- Reform the constitution and other laws to guarantee the equal enjoyment of human rights and gender equality, and prohibit gender-based discrimination and violence

Non-discriminatory procedures and practices:

- Scrutinise judicial procedures and practices to ensure that they do not discriminate against women or other groups
- Work with traditional justice mechanisms to ensure that they uphold human rights, including women's rights

Special measures to address GBV:

- Establish special measures in relation to sexual and domestic violence to ensure effective prosecutions and the protection of witnesses and victims

Gender training:

- Train all actors within the judicial sector (including judges, prosecutors, defence counsel, lawyers, court personnel, paralegals and legal educators) on:
 - the different experiences of the justice system of men, women, boys and girls
 - GBV
 - discrimination on the basis of sex, gender identity or sexual orientation
 - relevant national, regional and international laws
 - duties and responsibilities of relevant agencies/authorities to address gender discrimination and GBV
 - procedures and referral systems in cases of GBV or gender discrimination
- Institutionalise gender training as part of mandatory continuing legal education of judges, prosecutors, defense counsels, lawyers, court employees, and paralegals.

Increased access to justice:

- Employ paralegals to build legal literacy of the general population
- Provide legal aid to marginalised populations, including women, LGBT people and minorities
- Empower women to understand their rights and have them educate others (including men)
- Support civil society organisations, including women's organisations that facilitate access to justice.

Gender-responsive oversight and monitoring:

- Strengthen oversight and monitoring of gender issues by both governmental and non-governmental entities, including by civil society
- Include civil society representatives on formal oversight bodies

Key messages

Representative judicial sector:

- Promote the equal representation of women and men in the justice system through initiatives to increase female education, recruitment, retention and advancement.

After the (formal) reform process:

- Conduct a gender evaluation
- Continue monitoring and assessment of achievements and challenges
- Ensure appropriate bodies are tasked with responsibility for continuing gender reform and monitoring and reporting progress

In post-conflict contexts

In a **post-conflict situation** justice systems tend to face many problems (e.g., break down of rule of law; a poorly trained, corrupt and/or discredited judiciary; destroyed buildings; looted offices; lack of records; public distrust). Sexual and domestic violence often occurs during conflict and is likely to increase, amidst general insecurity.

However, post-conflict contexts can also offer opportunities to review, reform and to make more gender-sensitive laws, legal systems and customary or traditional practices. It is important that a gender perspective is adopted from the beginning of the peacebuilding and reconstruction process.

A gender perspective can be integrated into post-conflict justice reform in the following ways:

- Include women's groups as key partners in transitional justice and justice reform processes from the start
- Ratify or accede to international and regional human rights instruments and use them, along with Security Council Resolution 1325 on Women, Peace and Security, and Security Council Resolution 1820 on Acts of Sexual Violence Against Civilians in Armed Conflicts, as standards for action
- Make punishing perpetrators and recognising victims of GBV in national courts and transitional justice mechanisms (such as ad hoc criminal tribunals, truth and reconciliation commissions and reparations programmes) a priority
- Make it an immediate policy goal to strive for an equal balance of men and women in all roles at all levels in positions in the justice sector and in the training for such positions
- Ensure that all staff in the justice sector, including judges, prosecutors and court employees, are trained on gender issues.

See pages 16–19 of the
*Justice Reform and Gender
Tool*

1

Bricks in the wall: barriers to access to justice

Type of exercise:	Conceptual
Audience:	Any, but principally those somewhat familiar with “access to justice” issues
Time required:	50–60 minutes

Intended group size 16–24 people

Supplies Four large flipcharts and markers
Companion *Justice Reform and Gender Tool*

Guidance to trainers This exercise is an adaptation of a problem/objective tree analysis. It is necessary that the audience is familiar with their local justice reform context and “who does what.” Depending on the level of your audience, you might also wish to precede this exercise by a reminder of the barriers to access to justice listed on page 5 of the *Justice Reform and Gender Tool*. However, the point of this exercise is to focus on gender specific, rather than general, obstacles, so encourage trainees to think about those in particular.

It might be useful to pair this exercise with one looking at gender differences, stereotypes and discrimination (such as Exercise 1 or 3 in the *Training Resources on SSR and Gender*). This would help trainees to appreciate that gender roles are not uniform, at the same time as considering generalisations about gender and access to justice.

Learning objectives After completing this exercise, trainees will be able to:

- Identify barriers to access to justice for specific (gendered) population groups
- Recognise and critique interventions to overcome these barriers and their effects
- Develop improved or new responses to the problem

Exercise instructions Split the audience into four small groups of four to six people. Give each group a flipchart and markers. Ask group one to draw a woman, group two a man, group three a girl and group four a boy in the middle of the picture.

Then, ask each group to draw one brick of a wall on their respective flipchart, in the centre of which they write one major problem that could affect access to justice for this woman, man, girl or boy. Request that each group focus on the access to justice issues that are specific to the (age and) gender of their group, to the exclusion of more common obstacle to access. Ask each group to add other bricks and to denote linked problems by stacking the bricks to begin building a wall. Ask the groups to continue this activity, drawing and linking bricks, as far as they can go. Allow 20 minutes for this task.

When a whole wall of bricks has been created, ask each group to identify with an arrow the point in the wall at which a particular intervention (perhaps their own organisation’s intervention) begins and to highlight the consequences (how many other parts in the wall are impacted) (10 minutes). Have each group hang their drawings on the wall and invite everybody to walk around and view them. In plenary, discuss (15 minutes):

- What are key barriers to access to justice for women, men, girls and boys? How are they different for each category?
- Which barriers to access to justice are being addressed by which interventions? What are the results?
- What interventions might be needed but are not happening?

In a final discussion, raise awareness of the linkages between ending impunity for gender-based violence and building (women’s) trust in the justice system and, likewise, between promoting gender balance within SSR processes and security sector institutions and trust in the justice system (3 minutes).

Bricks in the wall: barriers to access to justice

Possible variations

This exercise could be done with different or more sophisticated categories than “woman”, “man”, “girl” or “boy”. For example “elderly men”, “disabled girls”, “gay men”, “victims of gender based violence” or men, women, girls or boys from a particular ethnic, political or religious group, rural versus urban populations, educated versus uneducated people.

If you want to do this exercise in an even more visual way, you could use life-size figures and pre-made carton bricks, on which to write and from which to build a wall.

If you have less time, you can restrict this exercise to analysing and linking problems only and not include an analysis of interventions.

2 Gender-sensitive justice reform: visualizing the scope of the task

Type of exercise:	Conceptual
Audience:	Introductory audience, in particular an audience that enjoys visual images more than text
Time required:	15 minutes

Intended group size

Any

Supplies

Board or flip chart and markers
Companion *Justice Reform and Gender Tool*

Guidance to trainers

This is a quick introductory exercise to visualise the scope of gender-sensitive justice reform and the impact taking gender issues into account can have, if this is at the centre of reform efforts. This exercise aims to open trainees' minds for the tasks ahead. It is based on Box 2 of the *Justice Reform and Gender Tool*, using nine words beginning with "p" to describe the integration of gender into justice reform. Your audience is encouraged to use this material, as it helps you to draw the picture on the flipchart.

Learning objectives

After completing this exercise, trainees will be able to:

- Appreciate the scope of the task of integrating gender in justice reform, identify the participants involved and identify some of the issues to be addressed
- Realise that if gender is put at the very centre of a justice reform effort and planned for, it will have a significant impact on the reform process and outcomes

Exercise instructions

The idea is to compare gender integrated into justice reform with the impact of a stone thrown into water, producing concentric circles and reaching out, thus helping justice reform efforts to become more effective.

Work in plenary. Begin drawing a picture on a flipchart as you talk with your audience about the nine steps to justice reform (described in Box 2 of the *Justice Reform and Gender Tool*). Do this in an interactive style, i.e., draw a piece of the picture and then ask the audience a question that would ideally be responded to with a word beginning with "p". If the audience does not say the p-word, conclude with it yourself, subsuming the suggestions made by the audience under it. Add to your picture after each step, as indicated in italics below. The Trainer's Cheat Sheet provides an example of what such a drawing might look like—but is not meant to prescribe what you draw in your own session.

1. Compare gender-sensitive justice reform to a smooth stone. *Draw a stone on your flipchart, and write "gender-sensitive justice reform" on that stone.*
2. It takes a lot of people to carry it.
 - Who? *(draw arrows to the stone, naming the various participants in the process, then encircle them)*
 - Who/what helps them? *(draw a large arrow into the circle, write **participation** on it)*
 - How? *Write **partnership** into the circle (that heavy stone cannot otherwise be lifted)*
3. Launch that stone into the water (= society). What is essential if one wants to determine how big the impact will actually be? (**planning** – if you include gender into the plan right at the beginning, it will reach out to the margins) *Write "planning" in the middle of a pool of water. Draw a circle around it.*
4. What is the immediate output when implementing gender-sensitive justice reform? *(Draw a second circle around the first and write **procedure, policies, and practices** in it)*
5. Reaching out to whom? *(Write reaching out to "victims", "perpetrators", and "public", on three sides of your pool of water using arrows)*

Gender-sensitive justice reform: visualizing the scope of the task

6. Affecting them how? (*Draw a third circle and write **prosecution, protection** into it*)
7. Reaching out further, to the general public. (*Draw a fourth circle and write **raising public awareness** in it*)
8. Leads to prevention, which feeds back to the centre of the impact, making it even stronger. (*Draw a fifth circle and write **prevention** in it*)
9. Finally, add "**performance control**", symbolised by, e.g., an eye, glasses or a magnifying glass. (*Draw this off to the side as if observing the whole process*)

Now your picture is finished!

Do not take more than 15 minutes to draw the picture. If you have a chance to reproduce the picture, distribute it at the end of your training.

Possible variations

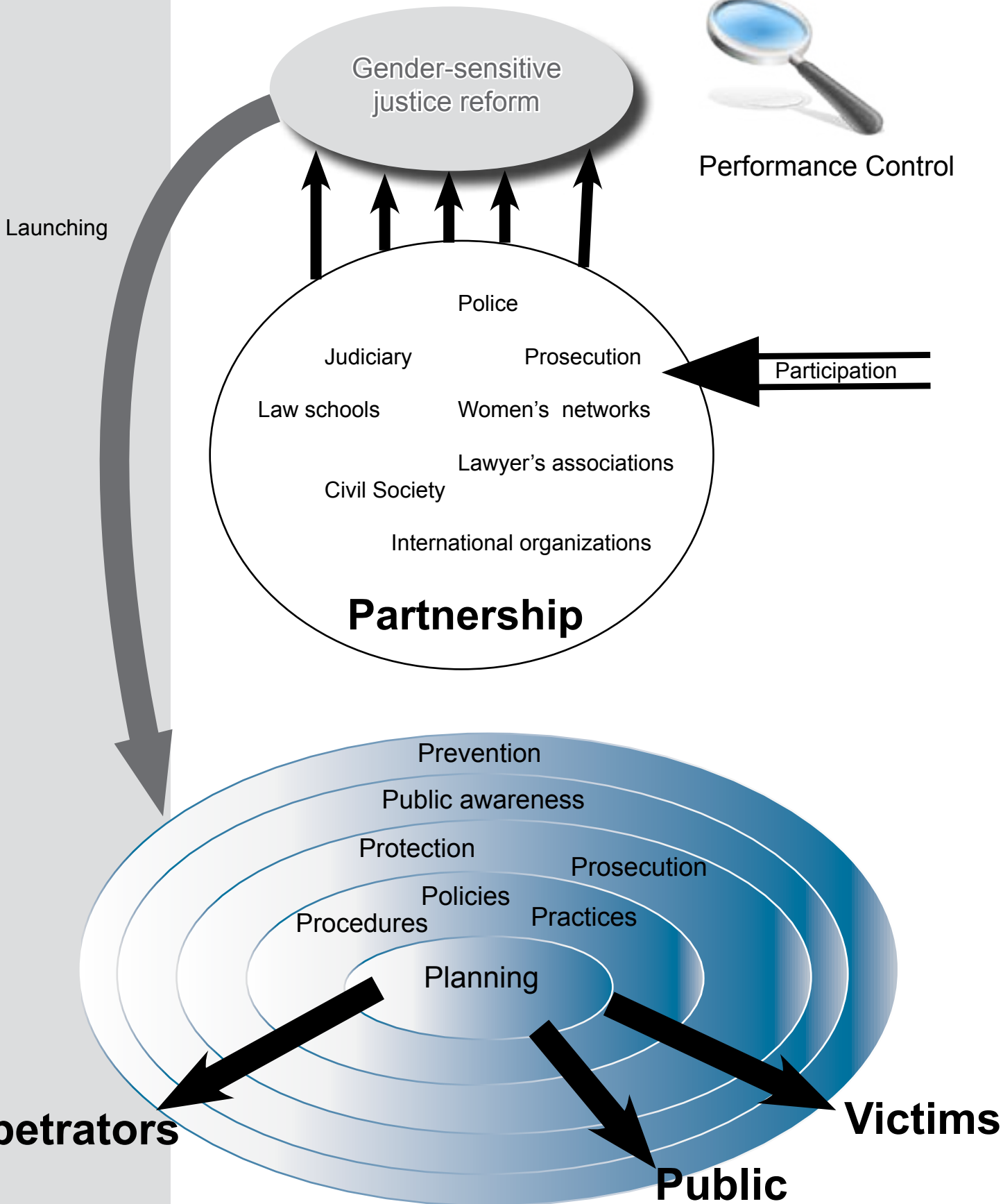
If you want to and your audience is up to it, you can act this out. Bring a stone and other props to symbolise the action (a blue blanket for the water? a set of glasses for performance control?). Assign roles to various participants.

**TRAINER'S
CHEAT SHEET**

**Gender-sensitive justice reform:
visualizing the scope of the task**



Performance Control



3

Dealing with resistance to gender issues

Type of exercise:	Conceptual
Audience:	Any, but see guidance to trainers
Time required:	About 25 minutes

Intended group size

Any

Supplies

Handout
Companion *Justice Reform and Gender Tool*

Guidance to trainers

This exercise focuses on resistance to dealing with gender issues. But rather than arguing with a “resister”, trainees learn the skill of active listening, drawing the person out and beginning to understand what might be at stake for the person in question. This is a very useful skill, not only with regard to resistance.

You need to know your audience before attempting this exercise. The exercise is based on the premise that some resistance to dealing with gender issues might best be overcome by giving space to express it. However, if the *majority* of your audience is sceptical, then the sceptics might encourage each other using this method, rather than be convinced otherwise.

Consider pairing this exercise with one:

- Exploring socialisation, beliefs and prejudices regarding gender (e.g., Exercises 4, 7 and 8 in the *Training Resources on SSR and Gender*)
- Gaining fluency with arguments for including gender into SSR programming, in particular vis-à-vis people who are less familiar with the benefits of including gender in SSR programming (Exercise 11 in *Training Resources on SSR and Gender*).

Learning objectives

After completing this exercise, trainees will be able to:

- Acknowledge that resistance to focusing on gender might exist
- Understand some of the reasons for this resistance
- Empathise with the specific circumstances that make a resister resist
- Propose a way to deal with the resistance

Exercise instructions

Explain that an imaginary colleague in this training is sceptical about the focus on gender issues during this training event. S/he believes that other issues in the reform process, such as good governance and the operational capacity of security institutions, are important issues, and attention is diverted from them when focusing on gender. S/he has extensive practical experience and argues that the magnitude of the task of reforming the security sector is so enormous that gender mainstreaming is a lesser priority. S/he says that people doing SSR increasingly receive requests to apply holistic approaches and mainstream a whole range of cross-cutting issues, and have a hard time doing justice to all of them.

Trainees have conversations in pairs. Each conversation lasts 10 minutes. One person plays the role of “the sceptic” and the other “the listener.”

For the first 5 minutes, the sceptic lays out the arguments presented above in some detail, as reasons why s/he does not think gender should be prioritised in justice reform. The listener actively listens, following the active listening guidelines on the handout. (If you wish, do a short demonstration of active listening).

In the next 5 minutes, the pairs focus on problem solving. During the first part of the conversation, they might already have come up with ideas on how to resolve the sceptic’s reluctance to take a gender-responsive approach to justice reform. If not, each pair must now brainstorm. They must write down all their ideas for possible solutions (e.g., obtain further funding to address gender issues, identify partners who can support gender work,

Dealing with resistance to gender issues

Exercise instructions

increase their own skills on gender, etc.)—without evaluating them. Then, those ideas which are clearly not implementable are crossed out. Finally, the pairs decide together whether there is a mutually agreeable way forward.

In a plenary debriefing of 10 minutes, focus on experiences gained. Is the sceptic more able to engage? Is the listener able to truly understand the scepticism?

Conclude by thanking everyone for having opened their minds and hearts to a difficult issue.

Possible variations

If you have longer to spend on this exercise, you could have each pair reverse roles after ten minutes, i.e., the listener now plays the sceptic, and vice versa. This would allow all trainees to practice active listening skills.

The nature of the scepticism can be altered to fit your audience. For example, you could focus on:

- More general resistance to doing gender training, because the sceptic believes they already know all about gender issues and believe nothing new will be presented
- Scepticism to focusing on gender in reform processes for “cultural” reasons. In this case, you could propose an imaginary colleague who argues that while not all laws, procedures and practices in his or her country might uphold the principle of equality, they are culturally appropriate, and that the introduction of new gender-sensitive laws, procedures and practices risks destabilising society. S/he believes that “gender-sensitivity” is a foreign imposition on the culture. S/he believes that the traditional status assigned to men and women in society provides security in itself and that the resulting childrearing practices serve everybody well, as they provide order (“a boy will know his place in society, a girl will know her place”).

Alternative exercises exploring fears and expectations concerning a workshop on gender include Exercises 2 and 8 in *Training Resources on SSR and Gender*.

HANDOUT

Active listening guidelines

1. *The listener attends, and acknowledges:* provides verbal or non-verbal feedback, i.e., makes eye contact, nods, smiles, takes notes.
2. *The listener restates or paraphrases:* for example, the sceptic says: “I really can’t participate in this workshop.” Your answer: “So you think you cannot participate in this workshop? Tell me more.”
3. *The listener reflects/reframes:* reflects feelings, experiences, or content that has been heard or perceived through cues. For example, “So, you are quite upset about this, you give me the impression that this worries you a lot” or “from what you have been saying it seems to me that you find yourself in a dilemma: you are sceptical about the content of this workshop, but you are a little bit curious as well.”
4. *The listener summarises/synthesises:* brings together feelings and experiences and provides a focus by summarising an issue or asking for confirmation. For example, “I understand that you don’t want to participate in certain parts of the workshop but you would be willing to try the introductory session. Is this correct?”
5. *The listener probes:* questions in a supportive way that requests more information or that attempts to clear up confusions. For example, “I’m not sure I have understood fully what you have said about X” or “can you say a little more about Y?”
6. *The listener gives feedback:* shares perceptions of the other’s ideas or feelings, discloses relevant personal information. For example, “have you considered discussing your concerns with the facilitator before the session?”
7. *The listener supports: shows warmth and caring.* For example, “it sounds like you have found quite a good solution. We can certainly talk more about this later, if you wish. I understand some of your reluctance, because I had some similar worries before my first training as well.”
8. *The listener is quiet:* gives the other time to think as well as to talk. Is comfortable with silence.

4

SWOT analysis: promoting gender-sensitive reform in your organisation

Type of exercise:	Application-in-context
Audience:	Staff of justice sector organisations
Time required:	About 95 minutes

Intended group size Maximum of 20

Supplies Handouts
Companion *Justice Reform and Gender Tool*

Guidance to trainers This exercise works well with representatives from different agencies within the justice sector in your audience, e.g., a group from the ministry of justice, another from the courts, another from a policy-making committee, another from a lawyers' association, another from the prison service, etc. Trainees do the main part of the exercise with people from the same agency, as insider knowledge of organisational functioning is required. The main value of running this exercise with representatives from different agencies comes during the plenary, where cross-organisational learning can take place. This exercise can also be carried out with one group alone. It is an excellent analytical tool if you want to test how far along different justice sector actors are in promoting gender-sensitivity in justice reform. The exercise not only transfers knowledge, but focuses on applying this knowledge to a real world situation.

This exercise can easily be combined with *Exercise 5 Strategies for change*, which focuses on developing concrete strategies for change by using the strengths identified in this exercise, an action planning exercise (e.g., Exercise 15 in the *Training Resources on SSR and Gender*) or a stakeholder analysis (e.g., Exercise 5 in the *Training Resources on Parliamentary Oversight of the Security Sector and Gender*).

Learning objectives After completing this exercise, trainees will be able to:

- Identify the strengths, weaknesses, opportunities and threats that they face in promoting gender-sensitive justice reform within their own organisation or agency
- Develop an initial understanding of how to turn the result of the SWOT analysis into action

Exercise instructions Begin with a brief warm-up, brainstorming on the principles of gender-sensitive justice reform. Split the audience into two groups. Write the words "gender-sensitive justice reform" on two flipcharts and have each group write as many terms relating to the topic on their flipchart. Call time after 5 minutes. The group that has written most terms "wins." Then go back over the terms and discuss them briefly (10 minutes).

Then, begin the SWOT analysis. Explain that a SWOT analysis is a tool to identify the internal strengths and weaknesses of an organisation or group in relation to the opportunities and threats presented in the external environment.

Divide the audience into groups, by organisation, if appropriate (not more than four groups for manageability). Pose guiding questions referring to the accompanying handout, such as: what are the strengths, weaknesses, opportunities, and threats that you have in promoting gender-sensitive justice reform within your organisation? What initial ideas do you have to capitalise on the strengths and opportunities and to minimise the weaknesses and threats? Encourage the groups to use the handout to record their ideas. Instruct the groups to appoint a facilitator responsible for guiding the group discussions and a rapporteur to report back to the plenary. The small group time lasts 45 minutes.

The value of this exercise lies in agency staff themselves identifying their organisational strengths and weaknesses. If, however, some groups need some assistance in identifying strengths, weaknesses, opportunities and threats, you might encourage them to reflect

SWOT analysis: promoting gender-sensitive reform in your organisation

Exercise instructions

on such factors as those listed below. Be careful to make suggestions only if you think a group is stuck, as you want to avoid channelling their thinking too much in one or the other direction.

- Reputation of their organisation/agency within other agencies and the public, e.g., asking if women and men equally trust the organisation/agency? Are there any complaints against the agency/organisation in regard to GBV?
- Any gender-related/specific issues/problems/difficulties/discrimination within the organisation
- Agency staff attitudes/perceptions (including self-reflection) towards gender issues
- The male/female ratio within the organisation
- Effectiveness of response to GBV and gender discrimination
- Clear roles, duties, obligations, responsibilities and accountabilities within the agency/institution, and deadlines, milestones and specific goals concerning gender issues
- Possibilities to identify (hidden) resistance within the agency/organisation to addressing gender issues; and how to respond constructively to such resistance.

In plenary, compare and contrast each group's SWOT findings to explore potential overlaps. As Ss, Ws, Os and Ts are listed, challenge the trainees to briefly consider:

- How can we use each Strength?
- How can we improve on each Weakness?
- How can we exploit and benefit from each Opportunity?
- How can we mitigate each Threat?

At this point it is not necessary to come up with conclusive answers, as this would lead to action planning (a different exercise). Determine if different organisations can help address each other's weaknesses or threats. If so, conclude by proposing that organisations consider partnerships amongst themselves (30 minutes).

Possible variations

This exercise focuses on justice sector organisations and their strategic development. As a variation, you could instead explore a particular aspect of gender-sensitive justice reform, such as "advancing human rights" or "ending impunity for gender-based violence" through a SWOT analysis.

HANDOUT

SWOT analysis: promoting gender-sensitive reform in your organisation

	Promoting gender-sensitive justice reform within your organisation	
INTERNAL (features of the organisation)	Strengths	Weaknesses
EXTERNAL (features of the environment)	Opportunities	Threats

5

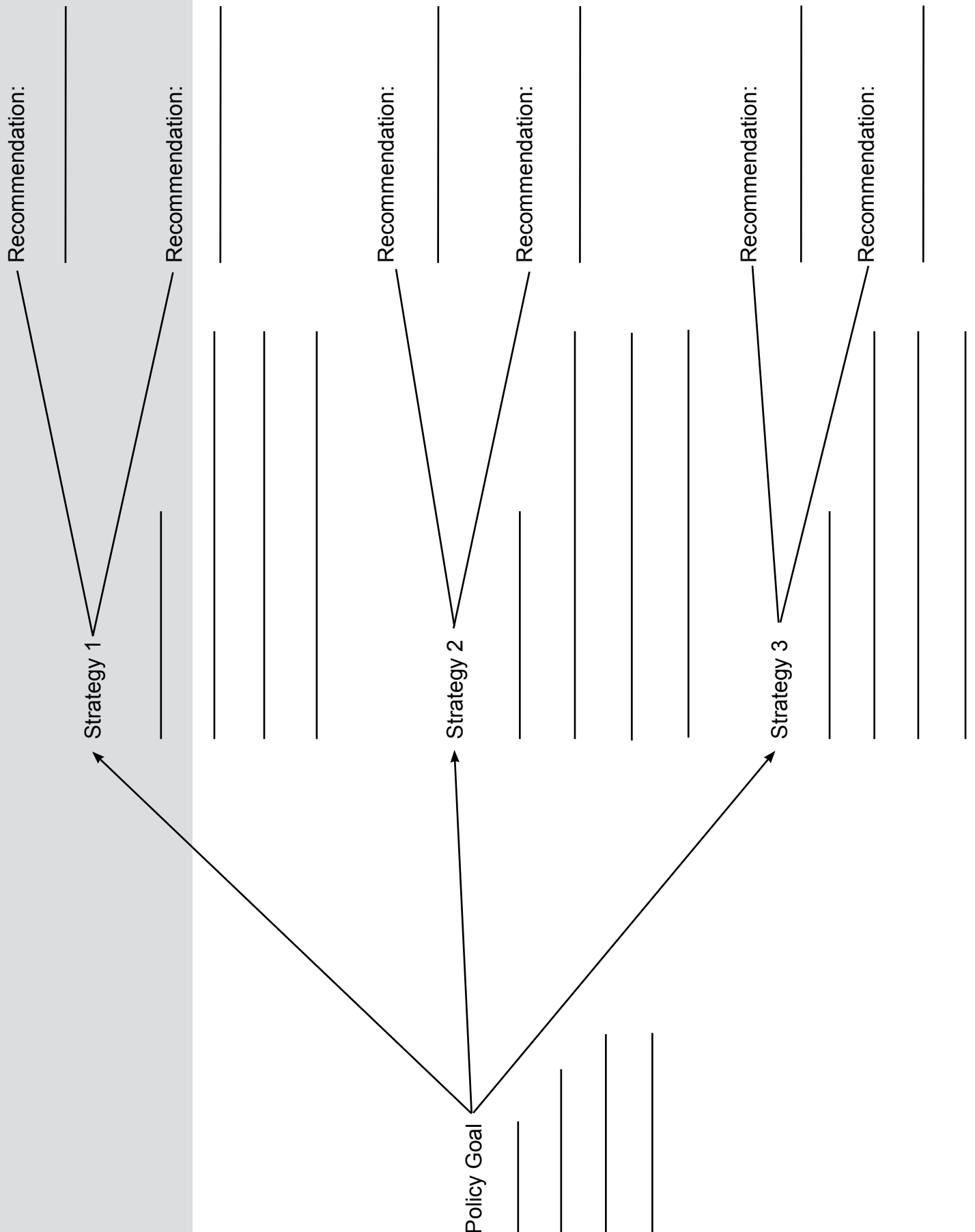
Strategies for change

Type of exercise:	Application-in-context
Audience:	Staff of justice sector organisations
Time required:	About 90 minutes

Intended group size	Maximum of 20
Supplies	Handouts Companion <i>Justice Reform and Gender Tool</i>
Guidance to trainers	This exercise should directly follow <i>Exercise 4 SWOT analysis: promoting gender-sensitive reform in your organisation</i> , so that recommendations for action are based on each organisation's honest assessment of its strengths and weaknesses. This exercise is a straightforward analytical exercise, covering several organisational aspects of a reform process. It works well with audiences that are knowledgeable about the powers and responsibilities within their organisations, have a vision and are keen to actively pursue change.
Learning objectives	After completing this exercise, trainees will be able to: <ul style="list-style-type: none"> • Formulate recommendations to promote gender-sensitive justice reform within their own organisation
Exercise instructions	<p>Explain that this exercise is a companion to <i>Exercise 4 SWOT analysis: promoting gender-sensitive reform in your organisation</i>, and so trainees should work in the same groups. Instruct the groups to appoint a new (different) facilitator responsible for guiding the group discussions and rapporteur to report back to the plenary.</p> <p>Request that each group work on the following aspects of promoting gender-sensitive justice reform within their organisations. Use the parts of the tool indicated (or other material) to explain each of these aspects, giving an example for each:</p> <ol style="list-style-type: none"> 1. Oversight and monitoring of areas for internal reform (see section 4.8, page 15 of the tool) 2. Human resource management within the organisation (see section 4.6, page 14 of the tool) 3. Collaboration with partners for a common vision (see section 4.9, pages 15–16 of the tool) 4. Specific gender-focused interventions (see section 4.7, pages 14–15 of the tool) <p>For each theme, the group is to propose:</p> <ul style="list-style-type: none"> • A policy goal • Three strategies to reach that goal • One or two recommendations for action to implement each strategy <p>Provide the handout to each group to facilitate the task.</p> <p>Small group work lasts 60 minutes.</p> <p>In plenary, share each group's proposals (20 minutes) (rapporteur reports) and allow for a short period (10 minutes), during which the audience can ask questions to each group. Conclude by challenging each trainee to act upon their recommendations in reality.</p>
Possible variations	This exercise can be done without a preceding SWOT analysis if group members know their organisations well and share similar ideas about its characteristics in relation to gender sensitive justice reform. Otherwise, you risk dispute about which strengths and weaknesses the organisation possesses, and hence what policy goals should be chosen.

HANDOUT

Strategies for change



6

Making law schools gender-sensitive

Type of exercise:	Topical
Audience:	Policy-makers in legal education and legal academics
Time required:	About 20 minutes

Intended group size	20–30
Supplies	Flipcharts Markers
Guidance to trainers	This exercise is an introductory exercise, useful for a range of audiences. Even those unfamiliar with the academic setting would be able to think up strategies on gender-sensitivity that could apply to other institutional contexts. However, more depth will be achieved with an academic audience.
Learning objectives	After completing this exercise, trainees will be able to: <ul style="list-style-type: none"> • Identify arguments for gender-sensitivity in a law school environment • Develop strategies to implement gender-sensitivity in an academic setting
Exercise instructions	<p>Explain that this exercise is set in the context of a hypothetical university law school. Invite trainees to imagine they are the Dean of the Law School, who has just received the report from a survey on the gender-sensitivity of the Law School. In essence, the Dean learns that:</p> <ul style="list-style-type: none"> • The ratio of female to male law students has slowly changed over time, so that now it is a surprising 3:1. The dwindling number of male enrolments is emerging as an issue of concern. • Almost 70 per cent of students agree that racial, ethnic and gender diversity in the staff and student body enhances how they think about problems and solutions in class. • Increasing faculty diversity on the basis of race and ethnicity, and to a lesser degree on the basis of gender, is important to students. Currently the faculty is 70 per cent male from northern countries. • While the university prides on being sensitive to diversity, minority students do not feel as much at ease as “mainstream” students. <p>The Dean is keen to address this situation through a renewed commitment to, and focus on, gender-sensitivity.</p> <p>Brainstorm for 5 minutes with all the trainees on which areas of focus she might want to address (e.g., student intake, public outreach and communication, faculty and staff composition). Write each of the suggestions as headings on large flipcharts that you hang around the room.</p> <p>Then, invite the trainees to silently walk around the room and add strategies under each heading. It is not necessary for all trainees to visit all flipcharts. Call time after 7–8 minutes.</p> <p>Go through each flipchart in plenary, so everyone can benefit from hearing all the suggestions made (7–8 minutes). Thank everyone for their contributions and, if possible, provide a master list of all the suggestions made to your audience by the end of your training event.</p>
Possible variations	<p>Adapt the hypothetical survey results to channel thinking in a particular direction, as appropriate for your audience.</p> <p>Determine the headings for possible focus beforehand. Then, do a simple brainstorm: use 5 minutes to have the trainees call out strategies to you that you note on a large flipchart. Organise terms mentioned in an additional 5 minutes, while discussing them briefly. Conclude by pointing towards the advantages of engaging in several strategies at the same time (cross-fertilisation), while being mindful of practical implications, such as resources.</p>

7 Gendered participation in the justice sector

Type of exercise: Topical
Audience: Any
Time required: About 20 minutes

Intended group size 20–30

Supplies Sheets of notepaper

Guidance to trainers This exercise sounds very simple but is more challenging than it might seem at first glance. For example, in the scenario given, trainees might either ignore the gender dimension or particularly emphasise it. Point out that there are not really “right” or “wrong” questions. This exercise works best if it is used as a starting point for a broader discussion on participation in the justice sector.

Learning objectives After completing this exercise, trainees will be able to:

- Reflect upon their own assumptions and prejudices as regards female participation in the justice sector
- Identify direct and indirect sexual discrimination in interviews

Exercise instructions Tell the trainees the following: if you could ask just three questions to discover a female candidate’s suitability for a senior level position in the courts, what would your questions be? Point out that the questions do not need to be “politically correct” and they are not the only ones that will ever be asked of this candidate. They should, however, be “effective”, i.e., provide you with some useful answers to determine the candidate’s suitability for the post.

Have each person work individually (5 minutes) and then invite suggestions (10 minutes). Discuss in a further 10 minutes issues such as:

- What bias is expressed when formulating questions?
- What types of questions are least effective and should be avoided? Try to identify characteristics of ineffective questions.
- What types of questions are most effective? Try to identify characteristics of effective questions.
- How might the interviewee feel when being asked effective/ineffective questions?

Possible variations Ask trainees to work in pairs or threes to test and reflect and refine (and maybe role-play) the questions.

8

Creating a partnership forum for gender-sensitive justice reform

Type of exercise:	Application-in-context
Audience:	Senior-level staff of at least three different justice sector and/or other institutions operating within the justice sector
Time required:	About 1 hour and 45 minutes (excluding suggested breaks)

Intended group size 10–30 trainees

Supplies Flipcharts and markers
Cards
Companion *Justice Reform and Gender Tool*

Guidance to trainers This exercise works best if the audience is composed of representatives of the justice sector institutions and other stakeholders, such as:

- The judiciary
- Ministry of justice
- Traditional and customary systems
- Parliament
- Prosecution and investigative authorities (including the police)
- Lawyers' professional associations
- Legal aid service
- Corrections/prisons
- Other ministries including the ministry of the interior and women's ministries
- Law schools
- Civil society organisations, including women's groups, religious groups and non-governmental organisations (NGOs)

There is no problem if fewer groups are present but there should be more than two groups to create a forum. It is assumed that you work in a context in which relationships between these various actors are not smooth and that few opportunities for dialogue exist, as is often the case in a post-conflict context.

The exercise follows a free-flowing discussion style in several rounds. This is challenging for any facilitator, because the conversation can take unforeseen directions. The exercise is thus recommended for facilitators with experience to be confident with making "in-the-moment" facilitation decisions.

To run the exercise, you will need a co-trainer or volunteer from the audience to note down the ideas put on flipcharts, assist with writing up cards, etc., so that the exercise runs smoothly and materials can quickly be reproduced and given to the trainees after the exercise.

Because it is a very long exercise, trainees will need breaks to remain fully engaged throughout.

If run well, this exercise is very powerful. The sense of empowerment comes both from exercising choice and from being heard and seen by the other trainees. You might be surprised by what trainees take away from this exercise and use in real life. In some contexts, partnership forums created in these types of training exercises have become emerging structures on which to build participatory democracy.

Learning objectives After completing this exercise, trainees will be able to:

- Develop a vision for common goals in gender-sensitive justice reform
- Identify gaps between current realities and their vision
- Discover partners with whom to collaborate on implementation of strategic action
- Recognise areas for action

Creating a partnership forum for gender-sensitive justice reform

Exercise instructions

Explain that this exercise is focused on creating a common vision for gender-sensitive justice reform among the organisations/agencies in the justice sector. Before starting, set down some rules by which the trainees must abide in the discussions to follow:

- Suspend assumptions about people and issues
- Treat each other as colleagues, even if they have different political/social/legal viewpoints/platforms
- Always explain why they said what they just said (describe what's behind their thinking)

The whole exercise takes place in plenary.

Possible variations

Round 1: Vision

Put on a large flipchart or white board the phrase “gender-sensitive justice reform.” Invite all trainees to put forward ideas on what their goals and objectives are in relation to this phrase. Have a volunteer record all ideas. Spend about 30 minutes on generating ideas and then break for tea/coffee.

Use the break to organise the ideas into several concise statements, each representing visions for gender-sensitive justice reform. Write each statement on large cards, big enough that they can be read by everyone in the room.

Round 2: Interconnections

Allow the trainees to identify and talk about the relationships between these vision statements and indicate which seem to fit together. As trainees suggest connections, physically move the postings on the wall to accord with people's groupings. Clusters of vision statements will emerge. Trainees will begin to see how their ideas of a desirable future might fit with ideas from others (who they might not have trusted before).

Values

Gradually, move the conversation to include the values and assumptions implicit in each cluster, for example, the trainees' sense of what they stand for as judges, lawyers, police officers, etc. This normally happens quite naturally, if not, you could simply ask a question, such as: “which value do you think is expressed by pursuing this goal?” After about 30 minutes take another break, if you can at this point.

Round 3: Realities

Move towards a discussion on current realities: “Given what we all want, what have we now got? What areas should we focus on to move towards what we want?” Once again, list on cards items which represent the current situation. Once again, cluster people's thoughts into five or six areas of primary focus, as you go along. Do this together as a group. It might be helpful to use the co-trainer or volunteers to move the cards around on the board. The clustering process is important, because it emphasises interconnectedness and a view of the system as a whole. Use about 20 minutes for this process and take another short break at this point, if you can.

Round 4: Actions

Reassemble to focus on practical action steps. For this, keep the “old” cards with vision items on the one hand and current realities on the other in front of the group's eyes. Now create two new flipcharts, one headed “critical gaps”, the other “milestones.” Hang them in between the old clusters and invite suggestions. Take another 20 minutes to complete these lists.

Conclude the session by suggesting that trainees use the ideas generated to partner with each other in gender-responsive justice reform. If possible, have trainees assign some initial follow-up duties—convening a follow-up meeting, sharing information about strategies,

Creating a partnership forum for gender-sensitive justice reform

Exercise instructions

emailing each other with the agreed steps, etc.—so that the partnerships created in training can continue.

Provide written-up notes of all items (vision, reality, gaps and milestones) to the trainees at the end of the session or day.

Possible variations

If appropriate, use a more specific goal within the context of gender-sensitive justice reform around which a common vision can be developed.

9

Identifying sex discrimination in law and practice

Type of exercise:	Topic-specific
Audience:	Staff of justice sector institutions or agencies supporting justice reform tasked with assessment, CSOs
Time required:	About 95 minutes

Intended group size Maximum of 30

Supplies Board or flipchart
Sticky dots in three colours (alternatively: board markers in three colours)
Trainees' handouts

Guidance to trainers This exercise practices assessing information on the justice sector for its gender-sensitivity. It is important to note that this exercise can only provide a limited snapshot of data that must be available before carrying out a full assessment—as is feasible during a training situation. Make sure you emphasise this point vis-à-vis your audience.

This exercise can be combined with *Exercise 10 Traditional practices and national law: educating and implementing*.

Learning objectives After completing this exercise, trainees will be able to:

- Identify shortcomings of the justice system in relation to gender in a hypothetical case study
- Assess in which areas of the justice system these shortcomings are particularly prevalent.

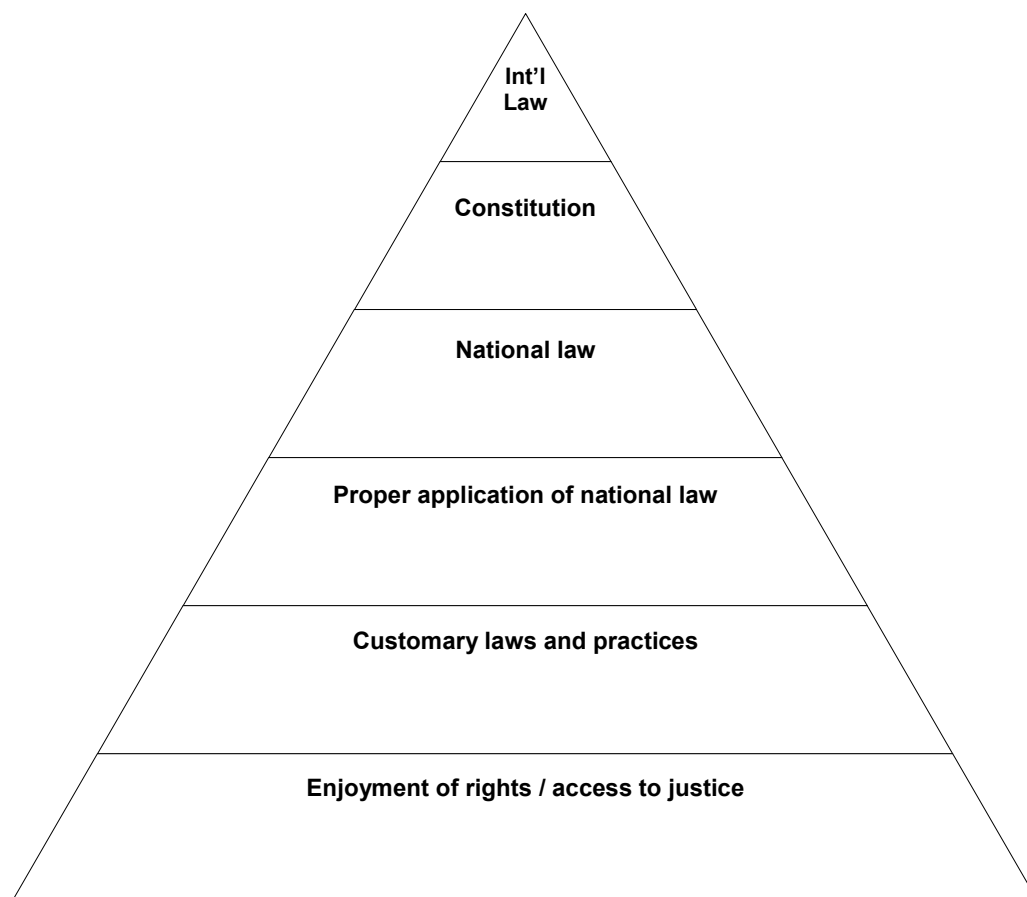
Exercise instructions Divide the audience into subgroups of four to six people. Each group will play the role of members of a parliamentary commission on gender equality, studying the situation of the hypothetical case of the Republic of Lanusta. Each group is given Handout A, an excerpt of an NGO report on gender, which provides them with some elements of a gender-sensitive assessment of the justice sector in Lanusta. Explain that, as a first step, the commission has decided to look for problems within the justice system that prevent people from enjoying their human rights and to identify points of intervention. To this end, the commission has developed a questionnaire (Handout B) which prompts each group to list a range of human rights and locate the shortcomings connected to the realisation of each right. (You might need to provide each group with several copies of Handout B, as only five rights/practices can be filled in per page).

Ask each group to designate a facilitator to lead group discussions and a rapporteur to record the group findings on the copies of Handout B. Group work lasts for 45 minutes.

During the group work time, draw the pyramid shown below on a board or flipchart.

In plenary, ask the rapporteur of each group to write the different human rights that they extracted on the board. All rapporteurs can do this at the same time. Then, ask each rapporteur where in the pyramid they would locate the shortcomings connected to the realisation of each right. Mark a coloured dot in the pyramid for each shortcoming. Use a different colour dot for each group. (The questionnaire lists the same categories as the pyramid, so it is easy to fill in the dots in the pyramid). Allow about 30 minutes for this work.

Identifying sex discrimination in law and practice



Once you have completed the marking of dots on the pyramid, lead a plenary discussion (20 minutes) guided by the following questions:

- Is there a pattern of shortcomings in the justice system?
- In which areas are the most shortcomings? Where are the least?
- What would you suggest be done? What would constitute the beginnings of an effective reform process?

Possible variations

Instead of ending the exercise with the discussion of what should be done and how, you could conclude by asking what other sources of information for analysis exist, how trainees would go about obtaining this information, and how the information could be best utilised to support the gender justice reform process. This would maintain a stronger focus on assessment processes, rather than justice reform strategies.

HANDOUT A

Identifying sex discrimination in law and practice

Excerpt from an NGO report on gender and justice in the Republic of Lanusta:

In the Republic of Lanusta, an eight-year civil war ended two years ago. The war devastated the country's population, crippled its institutions, and created social upheaval and economic instability that fostered escalating human rights abuses. Within that context, the Lanusta government has failed to address many human rights violations, and women have become increasingly vulnerable to abuse and marginalisation.

Lanusta long ago ratified the **International Covenant on Civil and Political Rights (ICCPR)**. The ICCPR states that:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Under the ICCPR: any person whose rights are violated must have an effective remedy; all persons must be equal before courts and tribunals; every citizen shall have the right and the opportunity to take part in the conduct of public affairs and to have access, on general terms of equality, to public service in his or her country.

A few months after the war ended, Lanusta ratified the **Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)**. CEDAW defines discrimination against women in the following terms:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

CEDAW establishes an agenda for action to put an end to sex-based discrimination: states parties to the Convention are required to enshrine gender equality in their domestic legislation, repeal all discriminatory provisions in their laws, and enact new provisions to guard against discrimination against women. They must also establish tribunals and public institutions to guarantee women effective protection against discrimination, and take steps to eliminate all forms of discrimination practiced against women by individuals, organisations, and enterprises.

CEDAW obliges states parties to submit to the UN Secretary-General a report on the legislative, judicial, administrative or other measures that they have adopted to implement the Convention. These reports are considered by the UN Committee on the Elimination of Discrimination against Women, which meets in Geneva and makes recommendations to states on CEDAW implementation. Since its ratification of CEDAW, the Government of Lanusta has presented one report to the CEDAW Committee, which focused almost exclusively on the situation of women in armed conflict.

The principles of equality and non-discrimination are also enshrined in the new Lanustan Constitution. For example:

- Article 1 of the Constitution affords “equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, colour, sex, religion, and ethnic origin.”
- Article 33(6) of the Constitution prohibits “laws, customs or traditions which are against the dignity, welfare or interest of women.”

HANDOUT A

However, discriminatory legislation continues to be in force and discriminatory customary laws and practices continue. This is largely due to lack of political will or technical capacity to confront issues of inequality and discrimination in a holistic and comprehensive manner. A new Ministry of Gender is mandated to promote gender equality but is under-funded and staff lack technical expertise.

An example of a discriminatory piece of law is section 361 of the Family Code. This states that a woman under 18 years of age can be married with the consent of her parents. There is no provision for boys under 18 to be married.

Likewise, Lanustan traditions demand that:

- The man is the head of the family and is master over his wife
- The execution of domestic chores and childcare is the exclusive responsibility of women
- It is the duty of a wife to work hard and bring her proceeds to her husband to use as he deems fit
- Only sons are worthy of inheritance from parents
- Girls are marriageable as soon as they reach puberty

Since the war ended, domestic violence has emerged as a significant human rights concern. According to recent research by a local women's network, approximately 40 per cent of women and girls in Lanusta have been victims of violence within their home, from either a spouse or member of their family. There are no services in Lanusta to support victims of domestic violence, and many of them never seek assistance from the police. Because of inadequate evidence-gathering and ineffective court procedures, those few prosecutions of domestic violence rarely achieve convictions.

Discriminatory practices also prevent women from seeking redress if they suffer from sexual violence. There are no guidelines for how police officers should proceed in sexual offence cases. If a rape is reported, the (almost certainly male) police officer usually does not investigate properly or even tells the rape victim to just go home. Victims of rape are moreover unwilling to go to court because rape cases are heard in public, and they fear stigmatisation by their community.

Women in Lanusta do not have the same opportunities as men to participate in public and political life, and have only limited access to the country's decision-making processes. Only 8 per cent of parliamentarians are female, and none of them are Government Ministers. There is a great shortage of judges, as many of them left the country during the war and have not returned. Of the judges who remain or have come back, only a handful are women. There are likewise few women at senior levels within the Ministry of Justice or the prosecution service. While the newly reopened law school is attracting many female students, many of them struggle to study while supporting older relatives or their children.

HANDOUT B

Use the information from the NGO report on gender and justice in the Republic of Lanusta provided in Handout A to fill in the grid. Work column by column.

Each column is meant for one human right or other legal right that you have identified in the text. In the box "Right" give a short description of the respective right, then use the information in Handout A to consider its implementation.

Identifying sex discrimination in law and practice

Right:		Right:		Right:		Right:	
<i>Do international legal instruments to which Lanusta is party provide for the right?</i>							
Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No
Comment:		Comment:		Comment:		Comment:	
<i>Is the right enshrined in the Constitution?</i>							
Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No
Comment:		Comment:		Comment:		Comment:	
<i>Is the right protected in national legislation?</i>							
Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No
Comment:		Comment:		Comment:		Comment:	

HANDOUT B

Use the information from the NGO report on gender and justice in the Republic of Lanusta provided in Handout A to fill in the grid. Work column by column.

Each column is meant for one human right or other legal right that you have identified in the text. In the box "Right" give a short description of the respective right, then use the information in Handout A to consider its implementation.

Identifying sex discrimination in law and practice

Right:		Right:		Right:		Right:	
<i>Are the laws that protect and promote the right implemented? Are the laws that protect and promote the right implemented?</i>							
Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No
Comment:		Comment:		Comment:		Comment:	
<i>Are there customary laws or practices that contradict the national legislation concerning this right?</i>							
Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No
Comment:		Comment:		Comment:		Comment:	
<i>Is enjoyment of the right otherwise impeded? (Is there access to justice concerning the right?)</i>							
Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No	Yes-go to the next question	No
Comment:		Comment:		Comment:		Comment:	

10

Traditional practices and national law: educating and implementing

Type of exercise:	Application-in-context
Audience:	Justice sector organisations, CSOs
Time required:	About 90 minutes

Intended group size 20–30

Supplies Trainees' handouts
Companion *Justice Reform and Gender Tool*

Guidance to trainers This exercise uses the case study from *Exercise 9 Identifying sex discrimination in law and practice*. It can follow that exercise, although it does not need to. It focuses upon one particular legal issue (inheritance) to reflect upon the challenges of modifying harmful traditional practices, and implementing justice reform efforts. Use Boxes 5 and 6 on page 7 of the companion *Justice Reform and Gender Tool* as background information and/or in an introductory presentation. It is not necessary to be an expert on inheritance law; all essential detail is in the handout.

Learning objectives After completing this exercise, trainees will be able to:

- Identify activities that lead to implementation of national law
- Critically assess the impact and feasibility of such activities

Exercise instructions Ask your audience to work in pairs and distribute the handout. Allow 60 minutes for them to answer the questions. Debrief in plenary in a 30 minute free-flowing discussion going consecutively through all questions.

In the debrief, you might emphasise issues such as: any reform process is likely to take time, must start with non-controversial issues, must follow a larger goal/vision, must be mindful of other justice sector processes taking place at the same time, should consider unintended results of reform.

Possible variations To allow the trainees to move around, you could write each question on a new flipchart, hang them around the room and have people write their ideas on the respective charts. In this case not everyone has to write on each chart, which might also save some time.

If your audience is very large, work in groups rather than pairs. If your audience is small, work with each person filling out the questionnaire individually.

HANDOUT

Law does not implement itself. Until individuals, and in this case women, seek the remedies and solutions it provides, a law is virtually useless. If women continue to accept passively the old and inequitable ways of distributing estates and do not seek the right to be considered as an heir then the changes in the law have been for nought.

Justice Anthony Gubbay¹

Traditional practices and national law: educating and implementing

Current situation in the Republic of Lanusta concerning inheritance

National legislation provides that:

Article 34 of the *Civil Code*:

1. *Where the land is bought for their joint use and occupation, a husband and wife will hold the land as joint owners. They shall be registered accordingly.*
2. *In the case of several wives laying claim to the land of one husband, each wife shall jointly own with her husband the piece of land on which she resided and still works.*

Article 54 of the *Penal Code*:

Where a man has died, his surviving wife or children have the right to the use of the tools, implements, household goods and effects and vehicles used by the deceased. It is a criminal offence, punishable by a fine or two years imprisonment, to act with the intention of depriving the surviving wife or children of the deceased of this right.

However, customary law and traditional cultural practices in Lanusta bar widows from inheriting land from their deceased husbands, even when the land is that they lived and worked on together.

Complex inheritance issues arise from traditional practices of polygamy. Polygamy is not legal under the *Civil Code*, but the practice is widely accepted in the community and by authorities, and is regulated by customary rules. A man often marries a woman under the *Civil Code*, then marries one, two or three more women under custom; or marries under the customary system and later marries another woman formally under the *Civil Code*. Problems arise when a polygamous husband dies and the resources of the family have to be allocated among the various competing “groups” and wives within the family.

Few widows attempt to make use of the formal, legal system to contest the allocation of property after their husband’s death. Widows rarely challenge the legality of prevailing customary rules of inheritance or raise the question of discrimination inherent in these rules.

The consequences of this discrimination against widows include severe impoverishment (as some wives will suddenly find themselves without homes), harassment (as competition in the battle over resources might take that form); ostracism (as widows without resources have little status in society), ill-health (as a consequence of poverty) and psychological damage (as a consequence of all of the above).

A number of factors may facilitate action in the Republic of Lanusta to improve the implementation of the formal laws on inheritance, and to modify discriminatory customary practices:

- The new Ministry of Gender plans a national public awareness campaign on gender issues.
- The Ministry of Justice has convened an inter-departmental working group on gender justice, with support from an international gender justice consortium.
- Women in the legal profession have formed an Association of Female Lawyers, and declared an interest in addressing inheritance issues.
- There will be a significant meeting of community elders from across Lanusta at the end of the year, and customary laws concerning property ownership are on their agenda.

¹ Cited by: Vanessa von Struensee, “The Contribution of Polygamy to Women’s Oppression and Impoverishment: An Argument for its Prohibition,” *Murdoch University Electronic Journal of Law* 12, no.1 (2005), <http://www.austlii.edu.au/au/journals/MurUEJL/2005/2.html> (last accessed 29 July 2009).

HANDOUT

Traditional practices and national law: educating and implementing

Questions

- 1) What are harmful traditional practices regarding inheritance in Lanusta and what steps would you take to address them?
- 2) What other actions are necessary to begin a process of effectively implementing the existing national laws on inheritance?
- 3) Who needs to be involved?
- 4) How would you prioritise your suggested activities?
- 5) What timeframe would you envision for changes to result?
- 6) How might changes in implementing inheritance law inspire other justice reform efforts concerning gender issues?

11

Debate: co-existing forms of justice

Type of exercise:	Topical
Audience:	Best if some (or all) in your audience are from or work in a post-conflict situation
Time required:	About 50 minutes

Intended group size Up to 30

Supplies Flipcharts and markers
Companion *Justice Reform and Gender Tool*

Guidance to trainers Key in this exercise is to consider how formal legal standards of prosecution and traditional forms of justice can co-exist successfully. The exercise is meant to sharpen trainees' perception of the different approaches without necessarily giving one preference over the other.

This exercise format should suit most audiences, as most people like to engage in a debate. You should have no trouble finding volunteers to be the spokespersons. It might be a bigger challenge to ensure that each trainee finds ample opportunity to engage, since not everyone can be a spokesperson.

If you want to explore issues concerning traditional justice and practices more deeply, consider also using Exercise 18 "Perspective-taking" in the *Training Resources on SSR and Gender*.

Learning objectives After completing this exercise, trainees will be able to:

- Outline some of the differences between and complementarities of formal legal and traditional justice systems
- Demonstrate understanding of the importance of both forms of justice system

Exercise instructions Split the audience into two groups. Against the backdrop of the brief situation outline described in the handout:

- One group is tasked with identifying arguments for a more formal approach to justice that applies international human rights standards.
- The second group is tasked with identifying arguments for a traditional (informal) form of justice, dispensed by a council of elders.

Each group elects a facilitator to guide group discussion and a spokesperson to present the arguments in plenary. Group work lasts 20 minutes.

In plenary, the two spokespersons present each group's arguments (10 minutes). The audience should take notes on which arguments they find particularly convincing and why.

In the remainder of the exercise (20 minutes), the audience picks the strongest of both sets of arguments, and tries to outline an approach that focuses on how both formal and traditional forms of justice can usefully support each other. Ask questions such as:

- How do you engage with traditional forms of justice? What outreach to elders could there be?
- How can you (elders) incorporate existing legislation and human rights standards into your decision-making? What do you expect from the formal justice system?

Employ volunteers to record answers on large flipcharts.

If it does not come out in the discussions, you might need to highlight to trainees that "formal" does not always equal "retributive", nor does "informal" always equal "restorative" in justice systems. While traditional justice mechanisms are often described as being focused

Debate: co-existing forms of justice

Exercise instructions

on restorative justice, where the wrong-doer is able to compensate for their crime and be taken back into their community, some traditional justice systems are highly retributive. It is difficult to generalise about traditional forms of justice, as they are as varied as any aspect of culture. At the same time, while formal justice systems in many countries draw from a tradition of retribution or punishment, human rights standards also have restorative elements—such as the right to reparation. If need be, refer to pages 13 and 14 of the *Justice Reform and Gender Tool* for background information.

Possible variations

In a methodological variation, you could split your audience into 4–6 subgroups, half making arguments for an informal approach, half for a traditional approach. Then, you could pair the groups to debate the issues. You would thus only discuss the proposals for a mutually supportive approach in plenary. This formula works well with large audiences and if you have sufficient time.

HANDOUT

Debate: co-existing forms of justice

Situation outline

The country of Bata is in post-conflict transition. A year ago, a peace agreement was signed, but some violence still occurs. Conflicts over land tenure and home ownership are widespread and incidents of revenge attacks in communities of different ethnic composition have become prevalent to the extent that people are scared to leave their homes. A particular target are women and girls, many of whom are raped or otherwise assaulted.

The interim Bata government and some donors are pushing for a strong response by the formal justice system to all acts of sexual violence. They propose setting up a special court in the capital to particularly focus on sexual violence crimes. However, traditional elders are pleading with the Bata government to respect their traditional approach to justice and the mechanisms they have to resolve disputes within communities. They say that they can deal with perpetrators of sexual violence without having them brought to the capital. They point out that all of the justice institutions in Bata are overwhelmed with the enormity of the task of prosecuting crimes committed during and after the war and, in any case, nobody knows what to do with all the prisoners.

Traditionally, at the village level, a group of elders would call forth a hearing of both the presumed perpetrator and the victim in front of all villagers. These sessions would sometimes take a day or so, depending on the severity of the crime. Witnesses might be called forth and everyone who so wishes could participate in the debate in order to determine the truth of what happened and to decide on the guilty. At the end of the process, the elders would withdraw into council and agree on a sentence, often to be carried out through community service or compensation to the injured party.

Elders want this approach to be applied to rape and assault of women and girls. Theirs would be a faster approach and would achieve faster reintegration of criminals into their home communities.

Others have pointed out that this approach is too lenient given the scale of the atrocities and the special support that victims of rape need. These voices call for “real” justice, in the form of punishment, to prevail.

A woman’s group who has begun to care for rape survivors has interviewed some women on their views of what form of justice should prevail. Most of these women demand punishment and think that they will get justice from the courts in the capital. Many of them need counselling, health care and support to find secure housing and work. The women live in fear of further incidents of abuse, as their perpetrators walk free.

12

Role play: Setting up legal aid clinics for victims of SGBV

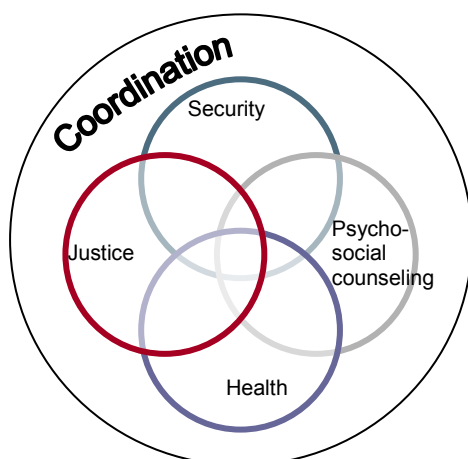
Type of exercise:	Application-in-context
Audience:	Anyone involved with responses to sexual and gender-based violence (e.g., Ministry staff, CSOs, donors, UN staff)
Time required:	About 70 minutes

Intended group size Up to 18 people

Supplies Board
Trainees' handouts
(Break-out rooms required)
Companion *Justice Reform and Gender Tool*

Guidance to trainers This exercise addresses legal redress for sexual and gender-based violence (SGBV) victims in a post-conflict setting. Trainees are challenged to develop an action plan that needs to be coordinated with a comprehensive SGBV network. The need for coordination is stressed throughout the exercise.

Before you start the exercise, make sure that the larger framework of a broad SGBV response is understood. Drawing this diagram on the board might help everyone to understand that the exercise deals with only one aspect of this framework:



In certain legal contexts the term “victim” may be required to conform to relevant laws¹, and “victim” is therefore used in this exercise. You might wish to include some reference to the connotations of the term “victim” (sad, weak, disempowered), and the term “survivor” (standing straight, empowered)—the latter of which is preferred by many actors in SGBV response.

Learning objectives After completing this exercise, trainees will be able to:

- Identify necessary activities to establish legal redress for victims of SGBV
- Recognise the need to coordinate these activities within a comprehensive SGBV response framework

¹ UNHCR, *Guidelines for the Prevention and Response of Sexual and Gender-Based Violence Against Refugees, Returnees, and Internally Displaced Persons* (Geneva: UNHCR, 2003), 6.

Role play: Setting up legal aid clinics for victims of SGBV

Exercise instructions

Take 5 minutes to set up the role play:

A non-governmental organisation (NGO) has approached the government of the country of Lanusta with the idea of developing legal aid clinics in the North of the country, which is particularly affected by SGBV. An official within the Ministry of Justice who is responsible for the legal system in the North wants to call a meeting with this NGO and the SGBV network coordinator. The SGBV network exists among various United Nations agencies, donors and international and local NGOs, the coordinator is currently the United Nations Development Fund for Women (UNIFEM). The trainees are to role-play this meeting. All parties to the meeting are positively inclined vis-à-vis the NGO proposal. The meeting's objectives are to:

- Harmonise a common vision concerning the legal aid clinics
- Coordinate the legal aid clinics with existing initiatives.

Divide the audience in three subgroups of 4–6 people, each of which will take a different perspective on the topic:

- Group A: UNIFEM representative (concerned with coordinating a comprehensive SGBV network in Lanusta)
- Group B: Government official from the Ministry of Justice (responsible for questions concerning the legal system in the North of Lanusta)
- Group C: NGO representative (wants to establish legal aid clinics throughout communities in the North of the Lanusta)

Distribute one of handouts A, B, and C to each group. Ask each group to designate a facilitator to lead group discussions.

The groups prepare for the meeting, listing issues they need to address with the other two parties. The government group sets an agenda and will chair the meeting. If you feel it necessary to give guidance on chairing the meeting, you might adapt Handout C of Exercise 12 in the *Training Resources on Parliamentary Oversight of the Security Sector and Gender*. Each group elects two spokespersons who will role-play the meeting. Both are of equal status, simply dividing between them the role of presenting their concerns to the meeting. Preparation time is 30 minutes.

Then, the meeting is role-played (allot maximum 20 minutes), chaired by the Ministry of Justice official (from Group B).

After the role play is concluded, there is a 10 minute debriefing involving the whole audience. This focuses on whether trainees feel that the meeting achieved its goals, and why or why not. Conclude by discussing how legal aid clinics relate to and can strengthen other efforts to improve access to justice.

Possible variations

Depending on the needs of the audience, you might want to take this exercise even further towards developing a workplan. In that case, after a break, use the results of the role-played meeting. Draw a grid as below and collect suggestions on how to proceed (30 minutes).

Main Topics	Activity	Timeline	Who?

You could use this exercise with a different hypothetical context, for example, combining it with *Exercise 13 A bird's eye view of gender-responsive SSR* in the *Training Resources on SSR and Gender*. It could also be combined with an action planning exercise, such as *Exercise 15* in the *Training Resources on SSR and Gender*.

HANDOUT A

Role play: Setting up legal aid clinics for victims of SGBV

GROUP A - UNIFEM, SGBV Network Coordinator

Your group takes on the role of the United Nations Development Fund for Women (UNIFEM). UNIFEM is the coordinator of the sexual and gender-based violence (SGBV) network in Bata, which includes various United Nations agencies, donors and international and local non-governmental organisations (NGOs). The SGBV network runs an integrated SGBV response programme.

You were informed that an NGO has shown interest in establishing legal aid clinics in the North of the country. Legal aid clinics provide victims of SGBV with (free) legal support and representation. You have discussed the proposal to establish legal aid clinics with other members of the SGBV network and everyone agrees it could be a helpful initiative to support victims of SGBV, but some raised concerns around coordination with existing services.

The government official responsible for questions concerning the legal system in the North has called a meeting, to which you and the NGO in question are invited. You want to prepare the meeting as follows:

Your situation and concerns:

- We would want the NGO to join the inter-agency SGBV network, signing up to our code of conduct and participating in our coordination meetings and mechanisms.
- We use already existing community centres to establish multi-disciplinary support points for SGBV victims. The centres combine services for health and psychological well-being with services to meet livelihood needs, such as housing and skills training. Legal aid is currently not (or not sufficiently) provided. Could a legal aid clinic thus be appended to these centres?
- We require (and do not yet have) a clear reporting and referral system. We are planning to introduce a system of case managers on the victim's behalf, so that victims do not have to repeat their story to numerous people. We recommend that the legal aid clinics be part of our reporting and referral system.
- We need to establish ways continuously to monitor the support programmes being provided to SGBV victims. At present, systems are not in place to do this, and we don't have information on what happens to the women and girls we help once they have passed through our centres. Legal aid clinics too should have monitoring; perhaps as part of an integrated monitoring system with our centres.
- People in the North of the country speak a dialect that is not an official language. We need to make sure that the victims are able to report assaults against them in their own dialect and that information about available services is provided in their dialect. This is just as important for legal aid work.
- The legal aid clinics will need female staff, as women in this country do not feel able to discuss their sexual assault with a man who is a stranger.
- It is very difficult for women to report incidents of rape, as there are very few women in the police and the police do not properly investigate. The legal aid clinics should also provide training to police, prosecutors and judges on the laws and procedures concerning SGBV.
- Legal aid clinics should give victims realistic expectations of the justice system. There is a four year backlog of cases at the courts, which can be very discouraging to a victim who has come forward.

HANDOUT A

Role play: Setting up legal aid clinics for victims of SGBV

GROUP A - UNIFEM, SGBV Network Coordinator

What do we expect from the government to help us reach our objectives?

What do we expect from the NGO to help us reach our objectives?

How can we assist the government?

How can we assist the NGO?

HANDOUT B

Role play: Setting up legal aid clinics for victims of SGBV

GROUP B - Government official

Your group takes on the role of a government official responsible for questions concerning the legal system in the North of the country. You know that at present women and girls who are victims of SGBV have great difficulty accessing the courts, and you think legal aid clinics could indeed be helpful. You know that usually legal aid clinics provide victims of SGBV with (free) legal support and representation.

You have called a meeting with the NGO proposing the establishment of legal aid clinics and the coordinator of the SGBV network to discuss the issue. You are responsible for setting the agenda for the upcoming meeting.

Your situation and concerns:

- The court system does not yet provide victims of SGBV with sufficient protection. Legal aid clinics could provide advice to victims and support them throughout the court process.
- Legal aid clinics could improve access to justice in this area, which is particularly needed. For example, people in the area are not well informed about their rights.
- But, it is important that legal aid clinics work in partnership with the police, the prosecution authorities and the courts. Any assistance offered must be done in accordance with Bata's laws and evidentiary standards or it can cause more harm than good.
- The legal aid clinics need to develop a mandate and make sure that others in the SGBV network are aware of its scope, mandate, and limits. Its services will need to be regularly externally evaluated to ensure quality service.
- Legal aid services needs to be free of charge for victims, but the government cannot afford to fund them at present. Where will resources for financing the legal aid clinics come from?
- How long will the NGO stay in Bata for? The government would like a ten year commitment to make sure the legal aid clinics are well established, and can be taken over by local organisations before the NGO leaves.
- How will the NGO coordinate its services with national, regional and local government authorities?

You prepare an agenda as follows:

HANDOUT B

Role play: Setting up legal aid clinics for victims of SGBV

GROUP B - Government official**AGENDA***Meeting objectives:*

- To harmonise a common vision concerning the legal aid clinics
- To coordinate the legal aid clinics with existing initiatives

Point 1

Point 2

Point 3

?

Meeting outcomes:

1.

2.

3.

?

HANDOUT C

Role play: Setting up legal aid clinics for victims of SGBV

GROUP C—NGO proposing legal aid clinic

Your group takes on the role of a non-governmental organisation (NGO) that is planning to establish legal aid clinics in communities throughout the North of the country, a region particularly prone to SGBV. Legal aid clinics provide victims of SGBV with (free) legal support and representation.

The government official responsible for questions concerning the legal system in the North has called a meeting, to which you and the SGBV network coordinator are invited. You want to prepare the meeting as follows:

Your situation and concerns:

- We will provide SGBV victims with legal representation. We will also inform SGBV victims of their legal rights and options.
- We wish to provide legal aid free of charge, but feel that it is the state's obligation to contribute something. The option of collaboration with law schools and bar associations for free (pro-bono) services needs to be explored.
- In what locations can we provide our services? How can we be certain that people coming to legal aid clinics are not stigmatised by being identified as SGBV victims?
- We must make certain that the relevant anti-SGBV laws are applied and enforced. We can offer training to local government bodies, police and judges on the legal aspects of SGBV.
- Court procedures need to be sensitive to victims. There need to be protective measures in the courtroom such as screens to ensure that victims can have their privacy protected and do not have to face their perpetrators while testifying.
- Can we be sure that evidentiary rules bar evidence concerning the victim's sexual history and reputation?
- Instituting "mobile courts"—where judges travel around the country hearing cases—could be explored, in order to extend the reach of justice to rural areas.
- We wish to hire local staff who speak the relevant local languages, and train them as paralegals. What support can we receive in doing that?
- Can we receive support to help victims and witnesses attend court sessions (with transport, accommodation, meals, etc.)?

HANDOUT C

Role play: Setting up legal aid clinics for victims of SGBV

GROUP C—NGO proposing legal aid clinic

<p>What do we expect from the government to help us reach our objectives?</p>	<p>What do we expect from the SGBV network to help us reach our objectives?</p>
<p>How can we assist the government?</p>	<p>How can we assist the SGBV network?</p>

13

CSO strategising

Type of exercise: Conceptual
Audience: CSO staff
Time required: About 45 minutes

Intended group size Up to 16

Supplies Companion *Justice Reform and Gender Tool*

Guidance to trainers This exercise is focused on a CSO audience. However it could also be interesting and fruitful with government officials, if they are open to putting themselves into the shoes of CSOs.

Depending on the level of experience with strategic planning of your audience you might need to add a bit of time explaining the various steps of a strategic process (the worksheet should help you with this). Don't make your subgroups larger than 4 persons, because large groups tend to be more difficult when their task is to agree on a fairly precise formulation of language.

This exercise could be combined with Exercise 13 "A bird's eye view of gender-responsive SSR" in the *Training Resources on SSR and Gender*, situating it in Zupatania rather than Hastapan; and also fits well with community engagement mapping, such as in Exercise 12 in the *Training Resources on SSR and Gender*.

Learning objectives After completing this exercise, trainees will be able to:

- Develop strategic objectives to support the functioning of a government body to address sexual violence
- Demonstrate the advantages of coordination and coalition-building among CSOs
- Develop an implementation plan for CSO support to a government body to address sexual violence

Exercise instructions Explain that this exercise is focused on practicing strategic thinking on the part of CSOs engaging in a justice reform issue.

In order for the exercise to work well, it would be best to split the audience into groups of four. Provide the attached handout to the groups and take 5 minutes for reading the background and instructions and possible clarification questions. Then allot 20 minutes to fill out the worksheet. Ask each group to appoint a group facilitator to guide group discussions and a rapporteur to report back to the plenary.

In the remaining 20 minutes back in plenary, fill out a master sheet of all ideas (on a flipchart or computer slide), by going around the groups asking them to present their strategies, but only those that no one else has already mentioned. Hand out copies of the master sheet at the end of your training. (In order to facilitate your task, a trainer's cheat sheet giving a comprehensive example is provided below)

Possible variations You can do this exercise easily in pairs (for fairly experienced audience the depth that can be achieved this way will be more satisfying), but you will lose a bit of time in such a case. Doing the exercise in pairs with a group of 20 people, allow at least an additional 15 minutes.

HANDOUT

CSO strategising

Background

Setting up a Sexual Violence Board in Hastapan

In the country of Hastapan, the war ended several years ago, yet security threats are still prevalent. Incidents of sexual violence are common.

Last year, Parliament passed a *Sexual Violence Law* that stipulates the establishment of a high-level Sexual Violence Board. The Sexual Violence Board, serviced by the Sexual Violence Secretariat, is situated within the Ministry of Gender, and will be chaired by the Minister of Gender. This gives the Board a high profile and, although it is not yet fully established, expectations are high. The Board will include other government ministers, the Commissioner of Police, members of the Attorney-General's staff, and civil society organisations.

The mandate of the Sexual Violence Board is to ensure a coordinated, effective and efficient response to sexual violence at policy and implementation levels. The Board will:

- Bring together key actors addressing sexual violence for an integrated approach
- Lead government on initiatives to fully implement the *Sexual Violence Law*, and monitor the law's implementation
- Solicit data and reports from relevant agencies on their sexual violence responses (such as police, courts, victim support services)
- Oversee educational outreach to communities

Since the Sexual Violence Board is still being set up, its budget and its action plan to implement the new *Sexual Violence Law* and are still being decided. This is a critical time for advocates to positively influence the functioning of this body.

At this critical point there are several questions concerning the Board:

1. Will the **mandate** of the Board be interpreted broadly or narrowly? For example, to what extent will it address social factors leading to sexual violence and prevention of sexual violence?
2. Will the Board have sufficient and predictable **funding**?
3. What will the Board's **operating procedures** be? For example, how open will it be to civil society? Will decisions made be public?
4. How will Board members and staff of the Sexual Violence Secretariat receive **continued education** in sexual violence issues?
5. How will the Board concern itself with **sexual violence programmes** currently implemented by international NGOs, private foundations and United Nations organisations?

Instructions

As a member of a civil society organisation working on sexual violence issues, strategise your efforts to help make the Board carry out effective work. Use the worksheet to assist your planning.

WORKSHEET CSO strategising

Outline of possible activities					
Possible obstacles?					
How? What approach/process to use?					
Main stakeholders and possible partners					
Target groups					
What proposed outcomes?					
Strategic objective					

TRAINER'S CHEAT SHEET

CSO strategising

Strategic objective	What proposed outcomes?	Target groups	Main stakeholders and possible partners	How? What approach/process to use?	Possible obstacles?	Outline of possible activities
Example: Establish a robust advocacy campaign	More effective protection of victims of sexual violence through the establishment of a functioning Board	Secretariat staff Board members High level politicians Media	National and international arm of CSO Other CSOs in-country	Engage with media Brief key journalists Request meetings with Sexual Violence Secretariat staff, with Board members, with politicians	Internal: Resources Capacities External: Resistance Lack of time Insufficient understanding of issues	Preparation of materials: Research Prepare arguments/analysis Prepare press release Request funding Establish meeting schedule etc.

Discussions

Suggested discussion procedures

Certain training events might involve facilitated discussion, either as a part of and/or instead of exercises. Here are a few examples of ways to get your audience to engage well in a discussion.

- Each trainee brainstorms individually on sticky notes, which are later posted to a large flipchart and discussed.
- Split the audience into “buzz groups” of two to three people. Most often used for introductory exercises, a buzz group is a small discussion group formed for a specific task, such as generating ideas or reaching a common viewpoint on a topic within a specific period of time. Hence, you would use the buzz group to discuss the chosen topic during a pre-defined timeframe and then have them report back to the plenary.
- Write four different answers to a question on four large sheets of paper and post one in each corner of the room. Each trainee is asked to go to the answer s/he most agrees with, and each group is asked to present their point of view most persuasively.
- Write four quotations that sum up particular aspects of the question you are discussing on large flipchart paper, then post one in each corner of the room. Assign trainees numbers from one to four. Ask trainees to move to the flipchart paper on which their number is written. Have trainees discuss their group’s quotation and write down responses on the flipchart. Stop discussion after a few minutes. Ask trainees to move to the next piece of flipchart paper, so that each group will be facing a new quotation. Repeat the process until all groups have discussed and responded to all quotations —then have the groups move back to their original quotation. Ask each group to read the responses of the other groups and to compare those responses with their initial answers.
- List four to six statements relating to a theme you are discussing on a large sheet of paper or whiteboard. Pass out note cards to the trainees, on which they write ideas or reflections on each statement. Collect these cards and sort them according to the statement they relate to. Assign groups to each stack of cards. Request that trainees (a) make a presentation to the plenary, (b) organise the cards into challenges and opportunities, or (c) find another way of creatively reporting back on what the group read on the cards.

Discussions

Topics for discussion

The following suggested topics for discussion are loosely organised around key themes elaborated in the *Justice Reform and Gender Tool*.

1. What are the key elements of gender-sensitive justice reform?
2. What are the benefits of including gender into justice reform?
3. Would you agree that supporting women's groups/civil society organisations can become an important vehicle for the provision of justice? If so, why?
4. How could supporting the human rights activities of community organisations or independent lawyers' groups (such as human rights monitoring and defence of victims) aid gender-sensitive justice reform?
5. How can you, as a judicial actor, gain information on the specific security needs of women and girls or men and boys? How can the information be used to improve access to justice?
6. Why would a comprehensive gender-sensitive assessment of who is actually delivering justice and security on the ground and to whom be an important prerequisite to effective justice reform? What might be first steps in such a process?
7. Why do you think there is often silence around gender issues and gender-based violence when addressing justice issues?
8. How can men and women who use the justice system be empowered to hold the providers of justice accountable?
9. Do you think that the providers of justice could sometimes become a source of insecurity? If so, what strategies do the following groups have available to hold them accountable:
 - (a) the local community;
 - (b) the media;
 - (c) parliament;
 - (d) national human rights bodies;
 - (e) United Nations and other multilateral agencies;
 - (f) other states?
10. What can courts do to help effectively prevent, respond to, and sanction gender-based violence?
11. What five actions would you prioritise so that ALL in society have equal access to justice?
12. Why is local ownership of programmes for gender-sensitive justice reform so important?
13. Give at least three examples of the importance of civil society's role in lobbying for law reform, in particular as it concerns gender issues.
14. In many contexts, unrepresentative justice agencies may be a root cause of insecurity. What steps can be taken to make the justice sector more representative of the people?
15. How might judicial training and education mechanisms be strengthened to support gender-sensitive justice reform?
16. If you worked in a "watchdog" organisation, what would you watch out for in relation to the goal of making the justice reform process more gender-sensitive?
17. If you had to commission a research project on justice reform and gender, what would you focus on and why?

Training challenges to consider

The *Guide to Integrating Gender in Security Sector Reform* discusses challenges to implementing gender-responsive SSR training.

While training on issues related to justice and gender you might also come across the following challenges:

- Actors within the justice sector may be particularly reluctant to discuss what they do not know in front of actors outside their own institution or organisation. Judges, for example, are unlikely to admit to prosecutors and lawyers that they do not know the law or “gender justice.” It may be advisable to have several sessions within institutions/organisations to discuss among themselves general concepts, challenges, gaps, etc. in relation to gender and justice reform. After each group has a firm grasp on how gender may impact what they do, they can then discuss this with groups from other institutions/organisations.
- The tension between internationally accepted legal standards and local solutions to justice might become an issue in your training sessions, particularly if you as a trainer are from a different country. While you might like to advocate universal acceptance of international legal standards, you must remain sensitive to the difficulties of implementing norms that may appear to conflict with local customs. Avoid arguments with your trainees about whether local or international laws are better or more binding. Before the training event, find out as much as possible about areas in which conflicts between laws occur, and how international legal norms can be upheld while respecting local beliefs. (See also Exercise 3 for ideas on how to practice active listening to overcome resistance.)
- Another tension to navigate around might be the gap between good laws and their application. While many countries have signed and ratified human rights declarations, it is quite another thing to apply them in practice. Practical problems, such as resource limitations and lack of capacity or lack of political will and a confusing multitude of responsible actors, might hinder the actual application of laws. Even if the justice reform training encompasses questions on implementation and process, someone in your audience might dismiss the training, “because it will, in any case, not be able to change the realities on the ground.” Try to get the person to see that incremental steps taken by some might still have some effect, especially once alliances are formed with others. Spend a moment to talk about social and political change strategies and advocacy initiatives, and invite others from your audience to provide examples from their own contexts. Encourage trainees to reflect on the positive impacts they can have on persons in positions of authority and/or “opinion leaders.”
- There might be tension around laws concerning gender issues “going too far” or being too specific, and making the everyday work of law enforcement and judicial agencies more complicated and/or less efficient. Examples from other countries showing the effective implementation of laws on gender issues can help to show that such concerns, while understandable, are unfounded. Further, highlight that specific laws to address gaps and discrimination in the law in fact aid proper interpretation of the law: unclear laws and amendments make it more difficult for police to gather evidence, prosecutors to present cases, and judges to be confident about their decisions and sentences. Likewise, new laws on gender issues make police and judicial work more—not less—effective when it comes to prevention and response to gender discrimination and GBV.
- In training on the gendered impact of the justice system, it can be a challenge not to refer only to women and children as victims, and men as offenders/perpetrators, thus reproducing existing gender biases and roles. You can also bring forward a positive image of women as strong and essential members of communities, emphasising women’s contribution to communities. Highlight that men and boys are important partners in addressing gender-based violence. When discussing victims of crime, emphasise that “victims” are also “survivors”—a more empowered identity.

CENTRAL
AFRICAN
REPUBLIC

Government and NGOs collaborate to fight female genital mutilation

The 1994 Constitution of the Central African Republic (CAR) guarantees equal rights to men and women in all domains of society. However, local traditions that discriminate against women remain strong amidst the predominantly rural population.

Female genital mutilation (FGM)¹ was forbidden by national law in 1966.² FGM is punishable by “imprisonment from one month and one day to two years and by a fine of from 5,501 to 100,000 francs, or by either punishment.”³ Nonetheless, a 1994–1995 Demographic and Health Survey of 5,884 girls and women aged 15–49 years revealed that 43.4 per cent had undergone FGM. Prevalence varied from 40 per cent in urban areas to 46 per cent in rural areas, and variability between regions was from 14 per cent to 91 per cent. This reflected varied FGM practices between different ethnic groups. Among the Banda and Mandjia, for example, FGM prevalence exceeded 70 per cent, while among the Gbaya, Haoussa and Sara, less than half of the population practiced FGM, and among the Yakoma-Sango, Mboum and Zandé-Nzakara, FGM prevalence was less than 5 per cent.⁴

The Demographic and Health Survey recorded that 27 per cent of girls and women reported side effects after cutting: 65 per cent reported bleeding, 40 per cent cited pain, and 17 per cent indicated that they had experienced a fever.⁵ It did not, however, record the number of girls and women suffering death or chronic health complications as a consequence of FGM. The World Health Organisation reports that FGM causes, inter alia, severe bleeding and problems urinating, and potential complications in childbirth, newborn deaths and infertility.⁶ Moreover, as the conditions in which the procedure is conducted are in most cases highly unhygienic (not to mention that it is performed without anaesthetic), many girls develop severe infections, which in some cases are deadly if untreated.

Since the mid-1990’s, the government and civil society in CAR have collaborated to try to eradicate FGM. Data suggests that this is having a positive effect. In 2000, just five years after the Demographic and Health Survey, government surveys recorded FGM prevalence as having dropped to 36 per cent.⁷ Later UNICEF statistics record a further decrease: between 2002 and 2007, the prevalence of FGM among girls and women aged 15 to 49 years was 26 per cent. The percentage of women aged 15 to 49 with at least one mutilated/cut daughter was 7 per cent.⁸

The government’s strategies to fight FGM have included gathering and assessing information, establishing structures and developing action plans. Since 1996, demographic and health surveys at the national level include questions related to FGM, so as to improve the level of understanding of the phenomenon, and help the government to identify the appropriate

1 Female genital mutilation (FGM), also known as female genital cutting or female circumcision is defined by the World Health Organization as “all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs whether for cultural, religious or other non-therapeutic reasons.” See: World Health Organization, *New Study Shows Female Genital Mutilation Exposes Women And Babies To Significant Risk At Childbirth*, Press release, June 2, 2006, <http://www.who.int/mediacentre/news/releases/2006/pr30/en/index.html> (accessed August 6, 2009).

2 US Department of State, “Prevalence of the Practice of Female Genital Mutilation (FGM); Laws Prohibiting FGM and their Enforcement; Recommendations on How to Best Work to Eliminate FGM”, 20, <http://www.state.gov/documents/organization/9424.pdf> (accessed August 6, 2009).

3 5,501 to 100,000 Communaute Financiere Africaine francs is roughly 8 to 152 Euro. Anika Rahman, and Nahid Toubia, *Female Genital Mutilation: A Guide to Laws and Policies Worldwide* (London: Zed Books in assoc. with CRLP and Rainbo, 2001).

4 Robert Ndamobissi, Gora Mboub, and Edwige Opportune Nguélébé, *République Centrafricaine: Enquete Démographique et de Santé 1994-95* (Bangui and Calverton MD : Direction des Statistiques Démographiques et Sociales, Division des Statistiques et des Etudes Economiques, Ministère de l’Economie, du Plan et de la Coopération Internationale and Macro International Inc., December 1995), 11, 201, http://www.measuredhs.com/pubs/pub_details.cfm?ID=108&ctry_id=5&SrchtP=ctry&flag=sur&cn=CAR (accessed August 9, 2009).

5 Ibid., 16.

6 WHO, “Key Facts on Female Genital Mutilation,” WHO Media Centre, <http://www.who.int/mediacentre/factsheets/fs241/en/index.html> (accessed August 6, 2009).

7 UN Human Rights Committee, Eighty-Seventh Session, Replies to Questions, *List of issues to be taken up in connection with the consideration of the second periodic report of the Central African Republic*, CCPR/C/CAF/Q/2/Add.1, June 23, 2006, 4, <http://daccess-dds.un.org/doc/UNDOC/GEN/G06/428/19/PDF/G0642819.pdf?OpenElement> (accessed August 6, 2009).

8 UNICEF, “Central Africa Republic: Statistics,” UNICEF February 2004, http://www.unicef.org/infobycountry/car_statistics.html#59 (accessed August 6, 2009).

CENTRAL AFRICAN REPUBLIC

Government and NGOs collaborate to fight female genital mutilation

steps to address it.⁹ The government, in partnership with UNICEF, commissioned three multi-indicator surveys (in 1994, 2000, and 2006) to gain a clearer picture of the results of its efforts towards combating FGM.¹⁰ In 1996, the Government established a national committee against traditional practices that affect women's health. In 1999, it adopted a national policy for the advancement of women, which led to an action plan for combating harmful practices and violence against women and girls.¹¹ This was subsequently reviewed and, in 2007, a new four year action plan was adopted to combat harmful practices, gender-based violence and sexual violence including genital mutilation.¹²

A key challenge is to alter community attitudes. The major obstacle to eradicating FGM is that it is a highly valued ritual, marking the transition from childhood to womanhood, and making a woman culturally and socially acceptable. If a girl or woman does not undergo FGM, social sanctions are likely to be applied: other girls will no longer associate with her, she will be called derogatory names, and she will be denied the status and access to positions and roles that "adult" women in the community can otherwise occupy. Traditionally, among communities that practice FGM, no eligible man would consider marrying a girl who has not undergone the procedure.¹³

The government has thus collaborated with women's and human rights non-governmental organisations (NGOs) on campaigns to change attitudes to FGM in rural areas. One such NGO is the Inter-African Committee on Traditional Practices (CIAF), which operates in 28 countries across Africa. CIAF was formed in 1984 by a group of women in Senegal who started raising public awareness of the dangers of FGM, and began pressuring decision-makers to take concrete action to implement the relevant laws. CIAF's activities include:

- organising events and conducting door-to-door awareness raising to highlight the harmfulness of FGM
- training legislators, health workers, youth, religious and community leaders on FGM
- reporting instances of FGM to the appropriate authorities
- research on intergenerational perceptions, trends, attitudes and practices related to FGM.

CIAF particularly tries to involve men and boys in their forums, hoping by this to change attitudes and make a breakthrough with regard to the elimination of negative cultural practices.

In CAR, CIAF's activities in 2008 included:

- A workshop for 48 legislators, including magistrates, lawyers, marshals, police officers and human rights specialists, from both the provinces and from Bangui. The opening ceremony was attended by members of the Ministry of Family and Social Affairs, the Ministry of Health, and the Ministry of Justice. Participants discussed the harmful consequences of certain traditional practices, and produced recommendations for government action.¹⁴

9 Karungari Kiragu, « La mutilation génitale des femmes : Un problème de santé publique, » *Population Reports, Répondre aux besoins des jeunes adultes XXIII*, no.41 Série J (Octobre 1995), <http://www.infoforhealth.org/pr/pr/fj41/fj41fgm4.shtml> (accessed August 6, 2009).

10 UN Human Rights Committee, Eighty-Seventh Session, Replies to Questions, *List of issues to be taken up*, 4. See also: République Centrafricaine, Ministère de l'Economie, du Plan et de la Coopération Internationale, Institut Centrafricain des Statistiques, et des Etudes Economiques et Sociales, *Suivi de la Situation des Enfants et des Femmes : Résultats de l'enquête à indicateurs multiples couplée avec la sérologie VIH et anémie en RCA 2006, Rapport Préliminaire* (Bangui : Ministère de l'Economie, du Plan et de la Coopération Internationale, Institut Centrafricain des Statistiques, et des Etudes Economiques et Sociales, Novembre 2007), http://www.childinfo.org/files/MICS3_CAR_PreliminaryReport_2006_Fr.pdf (accessed August 6, 2009).

11 UN Human Rights Council, Fifth Session, Working Group on the Universal Periodic Review, *Universal Periodic Review: Central African Republic*, Highlights, May 4, 2009, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Highlights4May2009.aspx> (accessed August 6, 2009).

12 UN Human Rights Council, Fifth Session, Working Group on the Universal Periodic Review, *National Report submitted in accordance with Paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1: Central African Republic*, A/HRC/WG.6/5/CAF/1, February 23, 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/CF/A_HRC_WG6_5_CAF_1_E.pdf (accessed August 6, 2009).

13 IRIN News, "Africa: When culture harms the girls – the globalisation of female genital mutilation," *IRIN News*, March 2005, <http://www.irinnews.org/InDepthMain.aspx?InDepthId=15&ReportId=62462> (accessed August 6, 2009).

14 Inter-African Committee on Traditional Practices, *Annual Report 2008* (Dakar: IACTP, 2008), 15, <http://www.iac-ciaf.com/Reports/IAC%20Annual%20report%202008.pdf> (accessed August 6, 2009).

CENTRAL AFRICAN REPUBLIC

Government and NGOs collaborate to fight female genital mutilation

- Training 16 women from NGOs on the harmful consequences of FGM and the relevant international and national legal frameworks. Participants worked together on strategies to prevent FGM. Later in the process, these 16 women would train another 168 women in six workshops, giving them the necessary tools and knowledge to sensitise their own communities.¹⁵

Despite the apparent achievements of awareness raising campaigns on FGM, law enforcement is still required. In 2006, the United Nations Human Rights Committee urged CAR to take measures to criminalise FGM and ensure that the perpetrators are brought to justice.¹⁶ In the words of Marguerite Ramadan, President of CIAF in CAR, “radio and TV spots, newspaper articles and community events all help raise the awareness of this harmful practice ... But to fully eradicate FGM we need to have the authorities on our side enforcing the law.”¹⁷

¹⁵ Ibid., 9.

¹⁶ UN Human Rights Committee, Eighty-Seventh Session, Official Records, *Concluding Observations, Central African Republic*, CCPR/C/CAF/CO/2, July 27, 2006, <http://www.unhcr.org/refworld/docid/453777a9e.html> (accessed August 6, 2009).

¹⁷ Rebecca Bannor-Addae, “Fighting circumcision in the Central African Republic,” *Humanitarian and Development Partnership Team Central African Republic (HDPT CAR)*, February 9, 2009, <http://hdptcar.net/blog/2009/02/09/fighting-circumcision-in-the-central-african-republic/> (accessed August 6, 2009).

INDONESIA

Oversight and monitoring of gender issues in justice reform

The independent Indonesian National Commission on Violence Against Women (*Komnas Perempuan*) was established in response to demands by women leaders and activists from a broad political spectrum for state accountability on the mass rapes that occurred during the 1998 riots.¹ The demand was made amidst national controversy challenging the truth of a citizen's report on the mass rapes, on the basis of the fact that none of the reported 152 rape victims – all of whom came from a racial minority targeted during the riots—came forward to speak publicly on the attacks.²

Komnas Perempuan was established by a Presidential Decree in 1998³ after lengthy negotiations between women leaders and the President's office, particularly with regard to its independent status, the procedure for selecting commissioners, and the naming of this commission.⁴ While violence against women was the entry point, the mandate of this commission was then defined more broadly in terms of protecting and promoting women's human rights.⁵ Since its establishment, *Komnas Perempuan* has in fact given priority to addressing the violence and human rights violations that women experience during armed conflict, as well as the issues of women victims of domestic violence; women servants working in Indonesian households, or overseas as migrant workers; women victims of sexual assaults whose cases are being processed in courts; women living in conflict areas; women who fulfil head-of-household roles; and village dwelling women living in poverty.⁶

The mandate of the *Komnas Perempuan* covers two fundamental objectives:⁷

1. To develop an environment conducive to the elimination of all forms of violence against women and the enforcement of women's human rights in Indonesia
2. To strengthen efforts aimed at preventing and addressing violence against women and to protect women's human rights.

To these ends, the commission is tasked with:⁸

- Providing information and recommendations to the government, legislative and judicial bodies, as well as civil society organisations facilitating and advocating for the formulation and ratification of a legal and policy framework that is conducive to preventing and addressing all forms of violence against Indonesian women, and protecting, enforcing and promoting women's human rights.
- Promoting public awareness on all forms of violence against Indonesian women and on efforts to prevent, address and eliminate violence against women.
- Undertaking monitoring activities, including fact finding and documenting all forms of violence against women and violations of women's human rights and then publicising the results of such activities so as to encourage necessary steps towards ensuring accountability for and addressing of issues uncovered in the monitoring process.

To fulfill its monitoring mandate, *Komnas Perempuan* compiles yearly data on cases of violence against women handled by government (e.g., police, attorney general, courts, hospitals) and NGOs around the country. It gauges annual trends in violence against women, making estimates on the number of cases per year. Its annual reports are then made public, allowing government agencies, civil society and the public in general to keep

1 C.A. Coppel, *Violent Conflicts in Indonesia: Analysis, Representation, Resolution* (London: Routledge Contemporary Southeast Asia Series, 2006).

2 See: Citizens for Justice and Peace, *Concerned Citizens Tribunal—Gujarat 2002: An Inquiry into the Carnage in Gujarat Gujarat*. Citizens for Justice and Peace, 2002), <http://www.sabrang.com/tribunal/vol2/womenvio.html> (accessed May 28, 2009).

3 Later superseded by Presidential Decree No. 65/2005.

4 The original proposal put forward by the President was for the commission to be under the Ministry of Women's Affairs and named the "National Commission for the Protection of Women." Originally, the President was also to be responsible for hand-picking several individuals to be commissioners.

5 The Presidential Decree establishing this commission refers, in fact, to two relevant international conventions: the Declaration of the Elimination of Violence Against Women (CEDAW), and the Convention Against Torture (CAT).

6 See: Humantrafficking.org web-site at: <http://www.humantrafficking.org/organizations/114> (accessed May 28, 2009).

7 See: Presidential Decree No. 65/2005.

8 See: UNFPA, *Terms of Reference: Needs Assessment of Komnas Perempuan* (New York: UNFPA), 12, <http://indonesia.unfpa.org/TOR-%20FPA-CONS-KP%20Assessment.pdf> (accessed May 28, 2009).

INDONESIA

Oversight and monitoring of gender issues in justice reform

track of progress and setbacks, year by year.⁹ Furthermore, it annually compiles data on violence against women cases being handled by women's crisis centers, police, the general prosecutors' office, and courts from around the country. The data is processed to provide a comprehensive national picture, and analyzed to identify broad trends and recommendations for action. The report is launched to the media, distributed to partner organisations in government and civil society, and uploaded to Komnas Perempuan's website.¹⁰ This partnership also includes policy dialogues with decision-makers, the development of curricula aimed at developing a gender-sensitive criminal justice system, as well as moot court competitions on violence against women in law schools. The Commission is also facilitating the growth, networking, and capacity building of women's groups, which provide services in counseling, legal services, and policy advocacy.¹¹

While *Komnas Perempuan* receives complaints from individual victims of violence, it only carries out direct monitoring on cases which are considered systematic or state violence.¹² Fact finding is started only under a specific request from the victim community, so as to prevent unilateral intervention by a national institution. For direct monitoring, *Komnas Perempuan* sends its representatives—Commissioners as well as trained staff members—to the location in which systematic violence against women or state violence has occurred. Cases of systematic violence which *Komnas Perempuan* has addressed include those in armed conflict situations, as part of trafficking practices, and those connected to structural poverty and abusive social-economic policies. The commission also carries out monitoring of new laws and regulations on women's rights. For example, it participated, together with women's organisations, in the active campaigning for a Domestic Violence Law, which was finally ratified in September 2004.¹³

Komnas Perempuan reports its work annually to the general public, through a public accountability forum gathering government officials, NGO activists, media, and other concerned citizens. Moreover, in 2005, the commission developed a new monitoring mechanism, which follows the model set by that of UN Special Rapporteurs within the Human Rights Council. The first of *Komnas Perempuan*'s Special Rapporteurs was identified for Aceh, specifically in response to the complex vulnerabilities deriving from more than ten years of armed conflict.

While its mandate designates it as a national women's human rights institution, *Komnas Perempuan* does not have any formal investigative powers, like the Indonesian National Human Rights Commission, nor an authority comparable to a civil court. Its role is mainly concerned with standard setting and policy change. In doing so, however, it still raises the gendered dimension of critical issues, and functions as a common ground for civil society, government, and law enforcement agencies to formulate together a new vision for the nation's future.

9 Harsano, *Indonesia's National Machinery for Gender Justice: Komnas Perempuan and its Monitoring and Oversight Role*, December 2005. <http://www.ubphunu-ncfaw.gov.vn/print.asp?newsid=1450&catid=220&lang=e> (accessed May 28, 2009).

10 Idem.

11 See: www.asiafoundation.org/pdf/indo_wpp.pdf.

12 Individual domestic violence cases instead, are referred to community-based centers, which directly provide services to the victims.

13 Law No. 23/2004 on the Elimination of Domestic Violence. See: National Commission on Violence Against Women (Komnas Perempuan), *Indonesia's Compliance with the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. Issues for Discussion with the Committee Against Torture*, Jakarta, April 2008, http://www2.ohchr.org/english/bodies/cat/docs/ngos/Komnasperempuan_Indonesia40th.doc (accessed May 28, 2009).

SOMALIA

Reforming customary laws to meet human rights standards

Of all the post-Cold War conflicts to arise in Africa, one of the most disastrous has been Somalia's, starting in 1991 with the collapse of the Somali state (both legally and administratively), and continuing to the present day. Somali women are particularly affected by the economic, political and environmental insecurities that emerged during the prolonged civil war. Because of the disastrous humanitarian situation, gains which women had made in education and politics during the 1980s have been rolled back in what has been described as "the lost decade for Somali women."¹

Discrimination against women and their systematic subordination to men are common features of Somali society, primarily due to the country's overwhelmingly patriarchal culture. Polygamy is permitted (while polyandry is not); women can inherit property, but only half the amount to which their male relatives are entitled; and, according to the tradition of blood compensation, those found guilty in the death of a woman must pay to the aggrieved family only half as much as they would if the victim were a man. Moreover, about 98 per cent of Somali women undergo female genital mutilation.²

Laws protecting women from violence and discrimination are inadequate, and those laws that do exist are not respected or enforced. For example:

- Violence against women is believed to be widespread, but denial is rife within society. The lack of an effective justice system in the country and poor law enforcement structures allow impunity to persist.
- There is no legislation that specifically covers domestic violence, and crimes of domestic violence and other types of family conflicts are generally dealt with using customary and Shari'a laws.
- While laws prohibit rape, in most cases of rape traditional approaches are applied. Typically, "arrangements" are made between the clans of the victim and the rapist. These arrangements ignore the victim's situation, and leave them in a precarious position, as rape victims are considered to be "impure" and subjected to social discrimination. Deep stigma attaches to sexual violence because of the dishonour it is believed to bring on the victim's family.
- According to the 1975 Family Code, the minimum age for marriage is 18 years for both men and women, but women can marry at the age of 16 years with parental authorisation. Although reliable statistics are lacking, early marriage appears to be common.³

There is no united national judicial system in Somalia. The judiciary in most regions relies upon a combination of traditional and customary law, *Shari'a* law, the penal code of the pre-1991 Siad Barre government, or some combination of the three.⁴

Somali customary law accommodates mechanisms for handling and managing conflicts between and among clans. The mainstay of *Xeer* (customary law) is conflict prevention codes to avert the confrontations that may arise from resource sharing and land disputes. If two parties are embroiled in conflict, the *Guurti* (traditional elders) of the two conflicting parties convene a *Shir Beeleed* (Clan Assembly) to discuss the issues at stake. The elders examine relevant codes in the *Xeer*. If no relevant codes are found, the issue becomes *Ugub* (Virgin). Then, the elders resort to the *Shari'a* for reference. If reference is obtained from the *Shari'a*, it is then integrated into the codes and becomes part of the *Xeer*.⁵

Starting in 2006, in an effort towards a thorough reform of the Somali justice sector, the Danish Refugee Council together with the local non-governmental organisation (NGO) Hornpeace, and with the collaboration of the United Nations Development Programme (UNDP), held a series of dialogues with over 100 elders and community leaders from five different clans living in the region of Puntland. The dialogues focused on aspects of

1 AFROL Gender Profiles: Somalia. http://www.afrol.com/Categories/Women/profiles/somalia_women.htm.

2 AFROL Gender Profiles: Somalia. http://www.afrol.com/Categories/Women/profiles/somalia_women.htm.

3 Social Institutions and Gender Index, "Gender Equality and Social Institutions in Somalia". <http://genderindex.org/country/somalia>.

4 AFROL Gender Profiles: Somalia. http://www.afrol.com/Categories/Women/profiles/somalia_women.htm.

5 CRD, "Traditional Governance in Somalia : South Central Somalia." Brief Report for the World Bank. March 28, 2005. <http://info.worldbank.org/etools/docs/library/153065/southcentralsomalia.pdf>.

SOMALIA

Reforming customary laws to meet human rights standards

traditional *Xeer* that were perceived as ineffective in conflict management and contradictory to basic concepts of justice and fairness as enshrined in both the *Shari'a* and international human rights standards. This process gave communities a chance to express their interests and needs, and raised awareness about human rights-related issues through seminars and advocacy campaigns targeting, *inter alia*, traditional leaders throughout the region. Topics under discussion during these dialogues included, ensuring the protection of the accused; fair treatment of women, orphans and minority groups; and problems associated with *diya* payment,⁶ collective punishment and property rights.

This process of consultations initiated by Hornpeace and UNDP culminated with the first ever National Conference for traditional leaders, in early February 2009. The conference was attended by 130 traditional leaders, religious leaders, and government representatives drawn from all seven regions of Puntland and included regional *aqils* and *nabadoons* (elders), as well as representatives from the police, courts, and national and international organisations. The conference opened the door for dialogue between high-ranking national government officials and traditional leaders.

By the end of the conference, the elders and ministers who attended had drafted and adopted a National Declaration, which aimed at modifying the local *Xeer*.⁷ This declaration represents an important step towards harmonising customary law with international standards, as well as strengthening the interaction between the formal and informal laws, particularly in the courts. Furthermore, it calls for obtaining an agreement between different legal systems on the proper treatment of internally displaced persons, refugees, migrants, minorities, the disabled, women and children, in accordance with international human rights standards.⁸ The traditional leaders identified principles, mechanisms and responsibilities for enforcement of the individual principles of the national declaration. The participants outlined plans to continue their efforts at harmonising and realigning the traditional system, the formal, secular judicial system, and *Shari'a* law. They then traveled throughout the region to disseminate the new laws.

The Coalition for Grassroots Women's Organisations, an umbrella organisation composed of 30 local women's NGOs drawn from different clans in Somalia, played an important role in educating participants to the conference about the situation of women in Somalia.⁹ Due in part to their lobbying, the conference addressed gender-based violence. The national declaration made critical changes to the *Xeer* governing forced marriages of a widow to her dead husband's brother.¹⁰ The declaration stated that the rights of women must fully be protected, identifying violations such as rape, slander, harassment, lack of inheritance rights, forced marriage, and problems associated with divorce and dowry payment. Participants to the national conference called upon the Parliament to pass laws addressing these issues, and they committed to advocate for the implementation of all necessary

6 From birth all males are members of a diya group. For men it is at this level that collective action takes place and the political and social implications of clan membership are most clearly defined. A man's security, and that of his property, depends on his diya group membership. Diya group members are linked through kinship. A son will belong to his father's group, and their membership to the group unites them through a contractual alliance to collectively receive or pay blood compensation (*diya*) for homicide or injury committed by or to members of the diya-paying group. Women are not members of the diya-paying groups in the same way as men, since they are not regarded as paying or receiving members when it comes to the group paying out compensation or sharing compensation received. J. Gardner and J. El-Bushra, *Somalia, The Untold Story: The War Through The Eyes of Somali Women* (London: Catholic Institute for International Relations, 2004).

7 The National Declaration (English version) can be downloaded from: <http://www.so.undp.org/index.php/Somalia-Stories/Strengthening-access-to-justice-in-Puntland-through-harmonizing-customary-law-with-international-sta.html>.

8 UNDP, *Strengthening access to justice in Puntland*. <http://www.so.undp.org/index.php/Somalia-Stories/Strengthening-access-to-justice-in-Puntland-through-harmonizing-customary-law-with-international-sta.html>.

9 The Coalition for Grassroots Women's Organisations (COGWO) has conducted 80 religious forums in 16 districts of Benadir region over the last five years. These religious forums were each composed of 35 women and 15 men, making a total of 4000 participants. The groups acquired a deep knowledge of gender equality and human rights from the Islamic perspective. Also, a comparison was made between the International Bill of Human Rights and *Shari'a* law. This knowledge has been distributed countrywide through videotapes and the audio cassettes. Moreover, with the support from UNIFEM, COGWO has raised public awareness on gender-based violence, as a first step towards empowering women. It organized several workshops with participants drawn from the media, members of the transitional government, traditional birth attendants, community health workers, NGOs, religious groups, youth and women activists. COGWO has produced a video documentary on women's rights with this core message: "Respect women's rights as human rights." The video is used as an awareness tool among religious leaders, traditional elders, the political class, the youth and women. UNDP Somalia, *COGWO—Celebrating Ten Years in Action for Women's Advancement and Peace Building*, March 2, 2009.

10 E. Wojkowska, *Doing Justice: How Informal Justice Systems can Contribute* (UNDP, 2006), 43.

SOMALIA

Reforming customary laws to meet human rights standards

changes to customary law to promote the protection of women's rights.¹¹ Although these remain only statements, they are nevertheless an important step towards recognising first, and addressing later, the widespread security threats that women suffer in a conflict-ridden and patriarchal society such as Somalia.

¹¹ See National Declaration cited above.

Additional training resources

ARC International, **Gender-Based Violence Legal Aid: A Participatory Toolkit**, 2005, http://www.arcrelief.org/gbvbooks/cdrom/content/Book_1_Toolkit/BOOK1.pdf

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