



EXPLORING THE SPECIAL JUDICIAL RESPONSES TO SGBV:
BEST PRACTICES, CHALLENGES AND GUIDELINES IN THE
GREAT LAKES REGION.

Discussion Paper

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Executive summary

The goal of the study conducted on behalf of ICGLR is to provide with all concerned stakeholders the ways and tools in order to establish special courts, procedures and sessions and strengthening existing mechanisms in member states. In section one, the paper highlighted the positive impact special judicial responses have on expediting SGBV cases. The assessment is based on selected cases studies around world, focusing on lessons learned, best practices and challenges.

For instance, the women's police stations in Latin America have the authority to preventing and investigating violence, receiving complaints, and protecting women. In Zambia, Zambia's victim support unit has engaged in innovative activities to provide services to victims. Female officers are 320 out of 430 victim support officers. The support unit manages to introduce a coordinated response center for victims of sexual violence which allows victims to receive medical, psychological and police assistance.

In USA, the blueprint drafted by Praxis International, an organization based in Minnesota, is a set of procedures and protocols that includes clear direction for what to do in a variety of situations, including interacting with victims, checklists for patrol reports, investigation tools and guidance for supervising officers in police and prosecution units.

Some states have successfully established dedicated special courts in which all the judges assigned to SGBV cases are exclusively trained judges with specific expertise in SGBV dynamics and trends. The south Africa sexual assault courts provides lessons learned regarding needs of victims and survivors, reduces the length of average SGBV court processes by half.

The special courts increase reliability and consistency between all concerned parties(police, health services, justice, social services). The special prosecutor unit also has proven effective in some cases. The second section underlined a set of guiding principles that should guide any endeavor to establish specialist response to SGBV cases. All these principles rest on two fundamental principles: victim safety and offender accountability. Obviously, the pillars should focus on coordinated community response.

All special mechanisms also strive to keep victims informed, design and conduct training and education for specialist personnel, enhance judge leadership against SGBV and putting in place information system for informed decisions. The third section focused on key components of specialist judicial response to SGBV cases that are essential to ensure efficacy and efficiency. Key components are based on case assignment, screening, intake units, victim service provision and monitoring systems to assess trends, dynamics, outcomes on victims, community relations and court personnel.

The key components have common features such as procedures for case identification, victim friendly court facilities, protocols for risk assessment, specialist personnel, ongoing training, court listing, evaluation tools. The paper has indicated there is no single agreed model applicable around the world. It went on identifying the main existing models and give an informed clear picture of which model is suitable for the specific features of each institutional system in which stakeholders are working. The easiest model to establish is the fast-tracking system that only intends to alter some rules or procedures in case management in each state.

The special procedures involved in a fast tracking system should be assessed within the whole legal and institutional set-up. The cluster system also is a resource neutral mechanism as it does not require any dedicated teams to be hired. However, it sends a strong message to the whole community that SGBV cases are taken very serious. Cases are identified, grouped together, screened, assigned and heard at specific days each week or month.

Both cluster and fast-tracking systems have some minor disadvantages associated with any of the choice but they can be mitigated when court management is aware of them. This paper made the choice not to discuss in length these disadvantages (it is not the main focus of this paper) although it gave a list of available references for those interested in checking the negative side-effect of establishing specialist judicial response.

The dedicated special courts model is the most difficult system to get established as it implies a lot of resources that may be allocated, more coordination, amendment to criminal law procedures and rehabilitative measures for victims. The specialist SGBV personnel has to be trained on ongoing base. Specific procedures and protocols should be designed and well implemented. The last section outlines specific guidelines on how best to establish special mechanisms, the issues to be considered and given specific attention for a successful design of specialist response.

Among these steps, assessing the local needs is key to success in this endeavor. Addressing the complexities of SGBV cases will require a coordinated community response and identify key stakeholders and developing a steering and implementation group tends to respond to coordination needs.

Goals and priorities for the specialist response will set the stage for the following steps. Specialist response does not operate in a vacuum. Thus, it would be recommended to review impact of existing criminal laws or/and ongoing justice reforms. Any endeavor has resource implications that affects the degree of specialization and the model to be developed.

In the same line, it would be relevant to determine staffing needs and assess the training curricula they should undertake. Finally, as for any change to be introduced in any setting, developing a phase-in plan for caseload

and services would help to efficiently kick-start the project and adjust if unpredictable circumstances happen. An operation group would have the primary responsibility to follow-up on all these steps.

This paper is formatted as follows: section I gives a selective account of specialist responses to SGBV around the world by focusing on a selected set of case studies in order to highlight the positive outcomes and impact of the special fast tracking systems. Section two examines the guiding principles that should be the foundation of all effective special judicial responses.

Section III provides a detailed discussion of essential components of GBV specialist judicial response. Section IV categorizes and describes the various existing models special mechanisms, briefly explaining their key features, the benefits and the disadvantages of each model. Section five outlines guidelines to help stakeholders when they consider implementing such special fast-tracking systems.

As far as methodology is concerned, this paper is in nature a desk study. It draws on an examination and legal analysis of a huge literature published around the globe on the issues, processes, outcomes, lessons learned and challenges of creating the special GBV fast-tracking systems even if the concept and its operationalization are still in its infancy across the globe.

The paper has focused on documenting and representing the experience of practitioners and activists working in the GBV justice handling cases. Special courts have been in place in USA, Liberia, Canada, Brazil, Australia,... The vast majority of good accounts of these good practices stem from these settings.

The paper also benefitted from a purposive sample of informal interviews with selected practitioners in Burundi, Rwanda, DRC, Canada, UK and USA to get their insights from their daily work with special fast-tracking systems, highlighting challenges, best practices and positive impact of these models.

The research made a moderate and wise use of internet searches for some evaluation reports and tools of these special systems. As said above, the paper will use the concept of specialist response to capture the various existing models of fast-tracking systems that encompass special courts, special chambers, special procedures and special sessions.

The main objectives of the study are:

- To explore legal definition and operation of special courts, sessions and procedures for SGBV cases and to analyze legal and institutional frameworks from an international perspective and to justify their applicability in the ICGLR member states;

- To explore the positive impact of special courts sessions, promising practices and challenges faced and to give an appraisal of what can be qualified as best practices that can be replicated by ICGLR Member States;
- To identify existing tools and/or guidelines that can assist ICGLR Member states to set up Special Courts, Sessions and Procedures for SGBV cases;

Introduction.

Every day, across the Great Lakes region, in peaceful, war-affected and post-conflict countries alike, SGBV is inflicted on women and children. In the context of armed violence, the incidence of SGBV increases. The number of SGBV crimes is huge. Furthermore, SGBV can cause extensive physical, psychological and psychosocial harm for victims and their communities. In addition, a number of political, security, social, economic and development factors contribute to-and are impacted by- SGBV.

Therefore, the ICGLR considers SGBV as a high priority, cross-cutting issue. SGBV is thus integrated to a significant degree in the formal framework of the ICGLR. The ICGLR's various legal instruments, institutions and plans provide SGBV victims and concerned authorities, civil society organizations and partners with a relevant tool to help combat SGBV in the region.

All these efforts culminated in a special session on Sexual and Gender Based violence which took place in Kampala on December 15-16th, 2011. The outcome of the special was a declaration made up of 19 clear decisions. The eighth decision under the section on ending impunity for SGBV: direct concerned ministries to establish and strengthen special courts, sessions and procedures in order to fast track SGBV in the Police and the Judiciary(with adequate financing, facilities and gender sensitive officers) within 12 months after the Summit and special session on SGBV(2011) to improve access to justice and protect SGBV victims/survivors in line with Article 6 (5) of the ICGLR protocol (2006) on prevention and suppression of sexual violence against women and children.

The present paper was commissioned by ICGLR secretariat to inform the upcoming conference of Ministers of Justice, Ministers of gender and chiefs of justice on how best the decision would be operationalized on national and local level, taking stock of the good practices, lessons learned and challenges in putting in place fast-tracking systems. Indeed, the specialist response to SGBV, in which a specialized caseload is handled by dedicated judges and court staff and linked to key partners, such as victim advocacy group, has been receiving substantial interest from policymakers, judges, court administrators, and agencies involved in SGBV cases.

This specialized mechanism is intended to address concerns of traditional GBV cases in which multiple judges and attorneys handle different aspects of a case. For many gender experts (See for example Walker, 2003) in

these traditional ways of handling GBV, information is disjointed, monitoring of perpetrators is inconsistent, and, in some countries, victims coming through the court system are not linked to any assistance.

The fast-tracking system can institutionalize procedures that promote victim safety, ensure accountability for perpetrators and enhance informed, educated judicial decision-making. The court also can build on an extensive collaboration with agencies and community-based organizations, in an effort to strengthen the entire community's to SGBV.

Literature review also suggests special fast-tracking system encompass many different models with variable degree of specialization. They may vary by scope of jurisdiction, by definition of SGBV, and by case type. In places where fully special courts are not feasible, some jurisdictions have developed dedicated SGBV dockets, in which such cases are grouped together on particular days to facilitate case handling, speeding-up and links to services. Despite variations, effective specialist response to GBV share certain fundamental values and principles, and contain certain key components.

The present paper is designed to frame the upcoming discussion on these special tools and assist the member states considering whether to develop a special court or another mechanism and determine if such a structure would be helpful, and if so, how best to model this structure and address the needs of their local communities.

Section I: Specialist judicial response to SGBV cases: lessons learned and best practices from selected case studies.

This section outlines a summary of selected case studies to highlight the successes, the lessons learned and the best practices that can be replicated in ICGLR Member States. In no way, the choice should not be interpreted as implicitly not recognizing efforts by member states. We thought it adds more value to go beyond the region and look at promising practices that can inspire the current reflection within regional fora as heads of state are determined as never before to combat all forms of SGBV in the region. Concretely, some special units are located where the investigation usually starts, others in the prosecution agencies and finally, some courts have special chambers or are designed as special SGBV courts or tribunals.

1. Special police units/designated officers.

The establishment of specialized units or designated officers to respond to cases of violence against women is an important tool for effectively implementing laws that seek to end violence against women. The U.N. Handbook for Legislation on Violence Against Women recommends that laws should designate and strengthen “specialized police units ... on violence against women, and provide adequate funding for their work and specialized training of their staff.” (Sec. 3.2.4); Violence against women cases can often be complex

and require special skills in recognizing the gendered aspects of crime patterns, working with victims and their families, dealing with perpetrators, and coordinating with multiple agencies. Developing these skills requires specialized education, training, and experience.

2. CASE STUDY – Women’s Police Stations in Latin America

In the 1980s and 1990s, few Latin American nations had laws on violence against women. In response to growing civil society activism on women’s rights and the developing international legal framework of treaties on violence against women, some governments began to establish Women’s Police Stations, despite lack of laws. In Brazil, Ecuador, Nicaragua, and Peru these specialized police units actually preceded much legal reform on violence against women:

“The first station was established in Brazil, which now has more than 400 Women’s Police Stations. Women’s Police Stations are focused on preventing and investigating violence, receiving complaints, and protecting women. Women’s police stations in Ecuador are justice administration entities so they have the authority to punish violence, issue protection measures, and order reparations. In Brazil, the women’s police stations now have the authority to remit cases to the corresponding court to help issue order of protection measures. Similarly, the women’s police stations in Brazil, Nicaragua, and Peru have the authority to enforce protection measures issued by the courts (For more details, see: Nadine Jubb, 2008)”.

3. CASE STUDY – Zambia’s Victim Support Unit.

Amendments in 1999 to Zambia’s Police Act mandated victim support units at all police stations to focus on rape, domestic violence, sexual abuse, and trafficking as well as certain other crimes. With such heavy responsibilities, funding and adequate human resources have been a challenge for Zambia’s Victim Support Unit:

“...Nevertheless, the Victim Support Unit has engaged in innovative activities to provide services to victims. Of 430 victim support officers, 320 are women. The Victim Support Unit collaborated on the opening of a coordinated response center for victims of sexual violence which allows victims to receive medical, psychological and police assistance in one location. Victim Support Unit officers also were trained to provide emergency contraception to victims of rape and defilement crimes in cases when they could not immediately access health services. This special unit also has collaborated with women’s civil society groups to produce reports on violence against women and children in Zambia. With the same positive outcomes, the same one stop centers do exist in South Africa...(HRW, World Report 2008 – Zambia)”.

4. Special investigative & other procedures.

Police documentation of criminal violence against women sets the stage for the way that many other actors in agencies and the community react to a woman seeking assistance. Accordingly, clear protocols must be

mandated by law or developed as mandatory policy in order to ensure that police documentation facilitates the appropriate implementation of laws system-wide.

CASE STUDY – Saint Paul, Minnesota, USA

The U.S. city of Saint Paul received legislative funding to create a “blueprint” (a highly detailed, foundational document) for how to build an effective criminal justice response to domestic violence. The resulting Blueprint for Safety focuses on criminal justice agencies only and includes specific guidance for every agency, including what victims need to be safe, what workers understand to be their responsibility to the victim and to all other interveners, and what is required by each worker and agency to hold an offender accountable. In addition, Blueprint lays out detailed policies and protocols for police who respond to calls about family violence:

“The Blueprint includes clear direction for what to do in a variety of situations, including interacting with victims, incidents involving police employees, incidents involving public officials, incidents when children are present or when an offender is gone by the time police arrive, as well as specific guidance for incidents involving stalking or strangulation. The Blueprint also contains checklists for patrol reports about family violence incidents. The Blueprint goes on to present protocols for further investigation of domestic violence cases and also has specific guidance for supervising officers. For details” (Details in Praxis International, 2004).

5. Specialized courts/tribunals for violence against women.

The U.N Handbook for Legislation on Violence against Women recommends that laws “provide for the creation of specialized courts or special court proceedings guaranteeing timely and efficient handling of cases of violence against women.” (Sec. 3.2.5). When they have adequate resources, there is evidence that specialized units in the justice system are more responsive and effective in enforcing laws on violence against women.

Around the world, special courts are particularly prevalent for domestic violence, where they allow for integration of a variety of legal processes including criminal, civil, and family law issues. Specialized tribunals often also are established to deal with cases of sexual harassment. Some nations have also created specialized courts to deal with sexual assault and rape.

Specialized courts provide a stronger possibility that court personnel will be gender-sensitive, experienced in the unique characteristics of violence against women cases, and may be able to process cases more quickly, reducing the burden on victims. Moreover, judges who consistently deal with cases of violence against women may see repeat offenders and can take appropriate action. Correspondingly, the fact that fewer individuals will deal with these cases can help deter future violence because offenders will expect increasing penalties and greater accountability.

6. CASE STUDY – Specialized Domestic Violence Courts Around the Globe

Specialized SGBV courts have been established with positive results in countries around the world including Brazil, Nepal, Spain, the United Kingdom, Uruguay, Venezuela, and several states in the USA. There are some concerns to be aware of, however, when establishing specialized courts. For example, having a concentrated number of judges focused on this issue means that the entire domestic violence caseload rests in the hands of a few.

Therefore, a poorly conceived or administered domestic violence court can negatively impact a jurisdiction's efforts to keep victims safe, hold perpetrators accountable, and improve the justice system's response to SGV issues. Finally, dedicated courts and prosecution teams may run the risk of being marginalized. Singling out one court to handle SGBV issues may generate an understanding of that entity as one that deals with "minor" as opposed to "real" crimes, thus undermining efforts to gain recognition of domestic violence as a crime and relegating domestic violence to the realm of the family (See Advocates for human rights, Stop VAW, 2010).

Brazil's experience with special courts highlights some of these issues. In 1995, Special Criminal Courts were created for minor offences. Brazil also has a system of Women's Police Stations to deal with SGBV including domestic violence and other crimes such as rape. Although not initially designed to hear only SGBV cases, most SGBV cases from the Women's Police Stations were sent to the Special Criminal Courts.

As a result, some gender experts argued that domestic violence was being trivialized and not being treated as a serious crime. After advocacy by women's groups, a new law on domestic violence –called the Maria da Penha law – created the Special Courts for SGBV cases. The new law, which transferred jurisdiction over SGBV cases away from the Special Criminal Courts, recognizes five forms of SGBV: physical, psychological, sexual, patrimonial, and moral.

The new courts take an integrated approach covering not only criminal law, but also aspects of civil and family law including custody of children, alimony/ child support, restitution of assets, and protective orders to keep the perpetrator away from the victim(For details, see Nadine Jubb, 2008). However, extensive analysis of the successes and challenges of operating domestic violence courts, in particular from the United States (See Emily Sack, 2002) and the UK(Cook, 2004) are available upon request.

7. Specialized courts and procedures positively change the way cases are handled.

Evidence supports the creation of special courts to handle only cases of violence against women, specifically domestic violence and sexual assault. For example, professor Cook's study in the UK revealed notable positive results from the use of specialized courts for SGBV related issues, including increased:

- effectiveness of court services and support services for victims,
- victim participation and satisfaction, and
- efficiency and better information sharing (Cook et al., 2004).

Even when specialized courts are not created, implementing special measures for cases of violence against women, such as court procedures designed to move violence against women case through the system quickly (fast-tracking), have achieved powerful results.

- In the same study, new court procedures reduced the length of average domestic violence court processes by half, compared to typical criminal processes (Cook, 2004).
- In South Africa, studies on sexual offences courts revealed an average 70% conviction rate, which is well above the national average. In addition, the courts were viewed in a positive light by the legal personnel involved, the families of the survivors, and the survivors themselves. As of 2007, 59 sexual offences courts were in operation (Walker, 2008).
- Studies also documented infrastructure improvements, such as equipment to enable witnesses to testify via video as well as separate waiting rooms.

The South African experience with specialized courts provides lessons learned about continuing improvements that can help increase the efficacy of specialized courts:

- **Better addressing the needs of victim/survivors** – ensuring easily accessible and culturally appropriate psychosocial support so as to avoid re-traumatization.
- **Continue to develop capacity** – ensuring that there are sufficient trained staffs so that survivors do not have to encounter lengthy delays before their case gets a hearing.
- **Increase reliability and consistency** – ensure that judges have sufficient training and broad experience, so that their decisions on the narrow specialized docket are credible; develop clear procedural guidelines for officials to promote consistent and reliable service.
- **Insufficient infrastructure** – support the allocation of sufficient space at courts so that separate and secure waiting rooms as well as specially designated court rooms can be set aside.

However, it is important to be aware of some of the potential for abuse of specialized courts. In some countries, specialized courts have been used to discriminate against women by relegating female judges to work only in specialized family courts and disallowing them from working in other parts of the judicial system.

8. Specialized prosecutor units.

In the same vein, evidence around the world has indicated that designating particular individuals to handle violence against women prosecutions, or training a team of prosecutors on the special dynamics of cases also has proven effective in some cases. Prosecutors may delay processes and hamper access to justice for women and girls when not appropriately trained regarding effective prosecution strategies for cases of violence against women.

At one hand, an evaluation of a program in Wales, UK for example, demonstrated positive outcomes when prosecutors were trained in new protocols for domestic violence cases and were trained to work closely with a women's support and advocacy centre (See study by Robinson, 2003).

However, at the other hand, research from the United States is more equivocal, showing that sexual assault charging decisions between specialized and non-specialized prosecutors divisions were basically identical (See Beichner, 2005).

Furthermore, the same U.S. study found that although there were differences in departmental policies and rates of plea bargaining and trials between the specialized and non-specialized unit, victim credibility was the real "focal concern" of the prosecutor in sexual assault cases:

"In this regard, for an illustration, in Philippines, trafficking of women and girls is a serious concern. In 1995, government appointed a special prosecutor on trafficking and around 181 cases were prosecuted in the first year. In 2003, the Philippines passed a new anti-trafficking law. By 2007, the government had 17 anti-trafficking prosecutors at the federal level and another 72 prosecutors in regional offices. Despite these efforts, there are nevertheless long delays in some prosecution¹s, highlighting the need for adequate funding, staffing and training of prosecutorial units"(See, www.humantrafficking.org, factbook on global sexual exploitation).

Section II. Guiding principles of a specialist response to SGBV.

Below are six core guiding principles that all judicial institutions handling SGBV cases should strive to uphold. These guiding principles are based on two core pillars: 1) SGBV victim safety and, 2) Offender accountability.

1. Victim Safety.

An effective SGBV abuse court prioritises victim safety by co-ordinating information and services so that judges, prosecutors and victim advocates are aware of both the case history and current safety concerns; by training all personnel to improve expertise and ensure that the dynamics of abuse are understood and appropriately addressed; by linking victims and their children to services while they are participating in the judicial process. Specialist support for victims is integral to a specialist response.

2. Keeping the Victim Informed.

Victims should be kept informed about all aspects of their case including the status of the accused. Complainers should also provide information relating to the case, their safety and concerns to the court. This information should inform decisions made by the court, e.g. in respect of bail decisions.

¹ The guiding principles have been borrowed from an interesting book of Emily Sack, published a decade ago in USA: creating domestic violence courts: best practices and tools, 2000.

3. Offender Accountability.

Courts should hold perpetrators accountable for their actions by ensuring that they comply with all court conditions and orders and respond swiftly with certain consequences should they fail to do so.

4. Informed Decision-Making.

For a specialist court to be effective, all stakeholder partners need current and accurate information. This information should not only relate to aspects of the criminal court, e.g. compliance with court orders but also information from the civil courts regarding applications for civil protection orders or contact and residence applications. All judicial decisions concerning SGBV cases should be based on a flow of reliable information. Information and subsequent decisions are the pillars of ensuring offender accountability and safety of SGBV victims.

Information sharing between stakeholders should be governed by consistent procedures and protocols which guarantee appropriate confidentiality and protect concerned rights. Beside the information sharing mechanism, there should be established and agreed multi-agency procedures and protocols that can be shared and enforced at all levels of coordinated community response.

5. Training and Education.

All participants who may be involved in a SGBV case – including judges, prosecutors, clerks, victim advocates, probation officers, must be trained on the dynamics of SGBV and effective interventions in order to improve their working practices and response.

Separate judicial training may be deemed appropriate although it seems relevant for other jurisdictions to special training wherever resources allow to do so. Multi-agency training encourages consistency across agencies and also educates about the range of roles and responsibilities it involves. Such training can assist effective multi-agency working. Certain agencies, e.g. victim advocates may need specialized training in addition to multi-agency training.

6. Judicial Leadership

Judges, especially those senior of high and supreme court can help to educate both within the court system and in the wider community by using their authority to show that a court takes SGBV seriously. It can be the responsibility of chiefs of justice and ministers of justice to give some directives on how best to adjudicate SGBV. In some countries, contracts of performance in place in courts can allow not only to expedite SGBV cases but also to send a strong message that courts are part of the solution.

Section III. Key components of a Specialist Approach.

1. Identification and assignment of cases.

Systems must be in place for each agency – police, prosecution, Courts Service, probation services – to identify SGBV cases and to mark electronic and hard copies as SGBV cases. Assignment is one important feature of special system. Screening cases also help to differentiate normal cases and those serious cases of SGBV.

2. Victim friendly court.

Court security should be reviewed to ensure that victim and witness safety is prioritised, e.g., separate entrances and exits where possible, separate waiting areas should be provided and all staff should be trained in respect of SGBV including those staff providing court security. In the absence of such facilities and following a safety audit, the court must be able to demonstrate that systems are in place to ensure victims' safety on arrival at court, during and after the trial or any other diet and on departure. The same rules apply to vulnerable witnesses.

Courts should have 'special facilities' in place such as video links, circuit-camera testifying. Courts should ideally provide facilities for victims of SGBV attending court, although resource constraints may affect levels of provision.

3. Protocols for risk assessment

Risk assessment is a means to identify those victims who are most at risk of experiencing domestic abuse in the future. Accurate risk assessments provide important information which can aid the provision of better service to victims because their specific needs are identified.

4. Specialist personnel

Specialist personnel in the form of trained judges, prosecutors, court administrators, victim advocates and other key personnel e.g., probation services, are essential to a specialist domestic abuse approach. If there is no dedicated/specialist victim support service in place, existing support services must have referral avenues to specialist services that have the capacity to provide casework-based support to victims.

5. Court listing

This involves implementing the types of specialist approach chosen by the steering group. Whether the type of specialist approach chosen is clustering or fast-tracking, it is crucial to have a recognizable system in place which demonstrates that SGBV cases are being prioritised above other cases. There must be guidelines in place to prioritise SGBV trials when they are listed with other trials. This may not be possible where statutory time limits apply or other trials involve child or vulnerable witnesses. Court lists should be made available to the victim advocate service.

6. Information sharing and monitoring system.

Sharing information is a key element of a successful special response to SGBV. Systems should be in place to ensure all concerned parties have access to information to adequate information. Methods and responsibility for evaluation should be in place from the outset. Evaluation necessitates tracking of SGBV cases from report to the police to final outcome. To keep the perpetrator's accountability as a guiding principle, the evaluation should include sentence outcomes.

After the outline of key components, the concrete way to assess these key components within the whole justice system is to undertake an exercise that examines the key components through the lens of the following questions: a) Case assignment, b) screening, c) Intake units, d) Victim assistance service provision, e) Monitoring. These questions should be assessed in terms of common courts/separate courts, Process and procedures in place, outcomes, addressing safety of SGBV victims, Effect on community relations and effect on court personnel. The following graphic offers a more visual framework.

Special SGBV Courts² : Components and issues to be considered.

	Separate Courts	Process and Procedures.	Outcomes	Addressing Safety and Accountability	Effects on Community Relations	Effects on Court Personnel
Are Cases Assignment to a SGBV Court or Specialized Calendar.	Is the separate court comparably Funded or more or less funded as compared to ordinary courts?	Are cases moving at a pace that is responsive to victim safety and conducive to holding perpetrators accountable? Are orders more consistent? Are appropriate local service providers available to assist litigants?	Are outcomes measured in the separate special court, and if so, how? Are reports of “success “ accurate	Are protocols in place for case assignment so that information sharing supports the no offending parent and addresses victim and child safety?	Do victims and the community perceive that the court takes SGBV seriously? Do local service providers find the dedicated court responsive, Victim friendly, Accessible?	Are backup personnel available for court connected professionals and, judicial officers? Is there mentoring/support for judicial officers and personnel? Is it more or less appealing to be assigned here?
Screening for SGBV and for Related Cases	Is screening done on only those cases assigned to the separate court?	Is screening for domestic violence and for related cases done throughout the file of a case?	Are screening Mechanisms being reviewed to determine effectiveness?	Is screening resulting in discovery of related cases? Are more consistent orders resulting?	Is it to the community why screening for SGBV and related cases is beneficial?	Are court personnel being trained and supported to screen?
Intake Units.	Is there a specialized intake unit with trained personnel?	Are intake personnel well trained on procedures that enhance safety?	Are outcomes being measured?	Is the intake unit well versed in protecting confidential addresses and taking other precautionary measures to protect safety	Is the intake unit perceived as being accessible	Do specialized personnel have backup?
Service Provision	Are safe appropriate, and accessible	Are services mandatory where	Are services accessible financially, and	Are the programs to which the court	Are services developed/ Offered in	Are opportunities available for multidisciplinary

² This table is inspired by the descriptive study domestic violence courts in USA, Julia Weber, 2000.

	resources available in the separate court? Do litigants in non-SGBV courts receive similar assistance if needed?	appropriate and available/optional where mandatory services would not be appropriate?	accessible, and linguistically?	makes referrals safe and accessible, and do they reflect best practices?	in conjunction with the local community?	teams, cross training, coordination between services?
Monitoring	Is monitoring different in the SGBV court? If so, is it more or less strict?	Who provides monitoring, the court or probation?	Is monitoring increasing compliance with court orders? Decreasing incidents of SGBV cases?	Does the monitoring agency consider victim safety? Are standards in place and are they followed?	Are monitoring set up to coordinate with local batterer and victim advocacy programs?	Are resources available for frequent monitoring?

Section IV. SGBV court or specialist response models.

This section discusses three common and promising models to allow the conference participants in-depth discussion the model or the combination of which models should fit their needs and expectations. We begin by an overview of these models, then go on highlighting their specific features and finally their respective advantages.

Overview of specialized SGBV judicial responses.

As this paper has demonstrated in section one, establishing specialized courts or court processes for SGBV cases is a promising and innovative way to increase the judiciary's responsiveness to SGBV.

Even though, there exists no single legal agreed definition of these special judicial mechanisms across the world, the latter have some common features. In the same vein, levels of specialization vary widely in those jurisdictions that have adopted this approach. Some jurisdictions have created courts that handle only SGBV cases; others have slightly altered court processes and procedures to ensure more effective processing of SGBV matters; yet others have only specialized staff that provide support to victims and non specialized judges and prosecutors.

1. Dedicated special Courts and Prosecutors.

In USA, for example, some jurisdictions have created special courts (often called dedicated courts) that handle all criminal and civil cases involving domestic violence and sexual assault. Other jurisdictions have created courts that handle all criminal SGBV cases. Other court systems have created dedicated teams of prosecutors that work only on SGBV prosecutions. Dedicated courts and prosecution teams can have many advantages. Because all SGBV cases are dealt with by the same group of judges or prosecutors, these individuals are able to gain expertise in the issues and to ensure more consistency in the treatment of these cases.

They will be more sensitive to the needs of victims and be able to direct them to additional community resources. Dedicated courts or prosecution teams may also be able to process cases more quickly, thus upholding offender accountability. However, the victim center approach has been criticized by opponents: judges sitting on specialized courts may appear to be less impartial. They also argue that SGBV cases are also difficult and to some extent demanding: those who work solely on these kind cases may experience burnout more quickly than others. Similarly, opponents have voiced concern that the existence of one entity with SGBV expertise will result in other judges and prosecutors feeling absolved of responsibility to be sensitive to SGBV issues.

2. Fast tracking systems or special procedures.

Some jurisdictions have altered the internal administrative processes of their courts in order to ensure that SGBV cases are handled in a way that maximizes victim safety and perpetrator's accountability. For example, many courts are scheduling and processing SGBV matters (i.e., hearings on protective orders, pre-trial conferences) separately from other matters. Court administration has sought to reduce the processing time of cases (Case assignment, screening, hearing, sentencing, protective orders, rules of evidence are rendered more flexible, adjournment rules are subjected on stringent conditions, priority fast calendar for SGBV cases, rules governing appearance of victims in court, safety audit...).

This ensures that cases are processed quickly, which can be critical. As time passes, the chance a victim will abandon the case increases; she may be in danger of getting harmed by the perpetrator himself or relatives or friends to him because she may refuse to abandon charges, feel frustrated with the process or with having to repeat her story multiple times. Other courts have changed the way they collect and track information about cases to better respond to the needs of victims and ensure that perpetrators are being held accountable.

3. Cluster systems or special sessions.

Other courts have created specialized processes to ensure women seeking relief from violence are provided the support they need. All cases of SGBV are grouped to a special listing and a regular calendar which hear cases on a particular day per week or a month. Those courts have specialized support units (called intake units, case managers, or resource coordinators) that, among other things, may help women file for civil

protection orders, provide women with referrals to community resources, screen for cases involving SGBV, ensure that information about related cases is shared throughout the system, and coordinate scheduling of related matters. Other courts have witness assistants who accompany the victim to court and often are able to provide the court and the prosecutor with additional background about the case and the history of abuse that may not be evident from the record. The support unit can be part of or independent of the court. The decision of which response to be adopted rests on the responsibility of national authorities and should be based on a thorough assessment of each national system. The different court models are considered below.

1. Fast Track System.

- *Key Features:*
 - ✓ Multi-agency partnership approach between police, prosecutor and advocacy support for victims.
 - ✓ Clear guidelines, policies and protocols.
 - ✓ SGBV cases identified by attending police officer and sent to prosecutor.
 - ✓ Risk assessment carried out by either attending officer or advocacy support.
 - ✓ Effective evidence collection by police to aid prosecution. Victim's advocacy service may also be involved in collecting evidence for prosecution, e.g. in UK they are trained to take photographs of victims.
 - ✓ No specialist court or prosecutors.
 - ✓ Joint Protocol between court administration and prosecutor services assumes that accused in SGBV cases will be taken into custody, therefore, most accused will appear from custody.
 - ✓ Summary criminal cases are fast tracked, e.g. trials within 7 weeks with fast tracking being achieved by allocation of SGBV slots in court program.
 - ✓ Time assigned in normal court to deal with cases. This may involve clustering of cases, e.g. intermediate diets all being in one court at one session or alternatively court slots being assigned to hear only SGBV cases, e.g. a proportion of all criminal court slots, equivalent to the prevalence of SGBV prosecutions, being assigned to deal with cases of SGBV.
 - ✓ All judges and prosecutors must be trained in SGBV and the fast track system.
 - ✓ Information sharing particularly in respect of risk assessment amongst agencies.
 - ✓ Independent advocacy support provided for victims.
 - ✓ Multi-agency steering group meets regularly to review matters arising.
 - ✓ Appropriate court facilities, e.g. separate waiting areas for victims and witnesses, separate entrances, which failing, staggered arrival and departure times. Security staff, where available, should be trained and aware of domestic abuse.

- ✓ Judicial monitoring and accountability of offenders.
 - ✓ Timely provision of pre-sentencing reports where requested.
 - ✓ Integrated data collection and distribution for evaluation purposes.
 - ✓ Arrangements with Bar associations required to fast track free legal aid applications.
- *Advantages of this Model:*
 - ✓ This model is ‘resource neutral’ in terms of court provision i.e., the court would be being used for these cases and there would be a prosecutor and a judge present to process these cases. However, the provision of advocacy support for victims is essential and will have resource implications for whoever funds this service.
 - ✓ Fast-tracked cases have a lower incidence of victim retraction and therefore lower incidences of case attrition. The rate of convictions increases as shown by studies. This may be due to the speed of process and also the support provided by the advocacy service.
 - ✓ The court shares the benefits of the specialised model, namely increased speed and an increase in the number of guilty pleas, which avoids the victim giving evidence at trial.

2. The Cluster Court Model.

This model differs from the fast-tracking system because cluster court model also known as special sessions has special days in a month or a week on which cases are identified, screened by police and prosecutors, assigned to judges and cases are managed by special intake units or cases managers or coordinators. SGBV also are grouped to a same dedicated listing and calendar. The same judges sit and hear the cases until the sentencing phase. Judges have mixed caseload but have specific days and time exclusively allocated to SGBV cases.

- *Key Features:*
 - ✓ Multi-agency partnership approach between police, prosecutor and advocacy support for victims.
 - ✓ Clear guidelines, policies and protocols.
 - ✓ Identification of SGBV cases by police or prosecutor.
 - ✓ Risk assessment carried out by either attending officer or advocacy support.
 - ✓ Effective evidence collection by police to aid prosecution.
 - ✓ Dedicated listings of SGBV cases (i.e. clustering).
 - ✓ Cases allocated to trained judges and prosecutors. These may be dedicated to processing the case (e.g. USA) or not (e.g. UK).

- ✓ Independent advocacy service for victims.
 - ✓ Presence of victim advocate and police SGBV police officer in court building (this varies between courts).
 - ✓ Where there are large numbers of SGBV cases, multiple courts dealing with SGBV cases may sit at the same time.
 - ✓ Multi-agency steering/implementation group meets regularly to review matters arising.
 - ✓ All judges and prosecutors must be trained in SGBV.
 - ✓ Information sharing particularly in respect of risk assessment amongst agencies.
 - ✓ Independent advocacy support provided for victims.
 - ✓ Judicial monitoring and accountability of offenders.
 - ✓ Integrated data collection and distribution for evaluation purposes.
- *Advantages of this Model:*
 - ✓ Clustering of cases sends message to accused, victim and witnesses that SGBV will be taken seriously.
 - ✓ Clustering of cases increases likelihood of consistency in approach.
 - ✓ Where there is a dedicated prosecutor and judge (the USA Model) who process the whole case, it has the same effect as the case being dealt with by a specialist court. Although this approach avoids the resources required by a dedicated court, there remain resource and time tabling issues if this continuity in legal personnel is to be preserved.
 - ✓ Decrease in time taken to process cases.
 - ✓ Decrease in backlog of SGBV cases and great commitment to prosecution.

3. Dedicated Specialist SGBV Court.

Dedicated courts differ from clustering and fast tracking system in the presence of specialist personnel, specific rules of procedures, judges exclusively assigned to SGBV cases, specific rules of evidence, specific ways of screening, special intake units within the special courts. Below are their main features even if they share similarities with the latter models.

- *Key Features:*
 - ✓ Dedicated processing of SGBV cases.
 - ✓ Cases are fast tracked by specialist personnel.
 - ✓ Dedicated prosecutor(s), judge(s), clerk(s).
 - ✓ Multi-agency partnership between police, prosecutor and victim advocacy workers provides a coordinated response.
 - ✓ Clear guidelines, policies and protocols.
 - ✓ Victims have access to independent advocacy services and support.

- ✓ SGBV cases identified by attending police officer and notified to prosecutor.
 - ✓ Prosecutor may also identify any additional cases.
 - ✓ Risk assessment and risk management of victims.
 - ✓ Effective evidence collection by police to aid prosecution.
 - ✓ Judicial monitoring and accountability of offenders.
 - ✓ Integrated data collection and distribution.
 - ✓ Arrangements with Bar associations to fast track free legal aid applications and provision of victim assistance.
- *Advantages of this Model:*
 - ✓ Dedicated court deals with all summary criminal cases. It has the benefit of trained prosecutors, judges and clerks who have a shared understanding of the issues surrounding SGBV and adopt a consistent approach in dealing with cases.
 - ✓ Fast tracking of cases and the independent advocacy support provided to women encourages their commitment to support prosecutions and reduces case attrition.
 - ✓ Clustering of cases sends the message to accused, victims and witnesses that SGBV is taken seriously.
 - ✓ Dedicated prosecutor(s) encourage consistency in prosecution.
 - ✓ Consistency in sentencing should be more easily achieved where dedicated judges are present.
 - ✓ Use of protocols to encourage information sharing, action planning, communication and referral, together with good practice guidance for police regarding treatment of alleged offenders and evidence gathering, and marking guidance for prosecutors.

As it is clear from this outline, first of all, these models do share some common features. Secondly, there is no single quick-fixed model. Adopting one or two of them actually depend on a number of institutional and financial factors that have been underlined.

The purpose of singling out models is just to give a more general and clear picture on how some courts have dealt with SGBV cases, keeping in mind they have taken into account the specific features of their own criminal laws, justice institutions and the budget allocated to court management. However, guidelines should help to design an action plan for each state intending to establish one of the described models or a combination of two or three models.

Section V. Guidelines for the development of a specialist approach to SGBV cases.

This section outlines a summary of detailed steps intended to give guidance on the information required and issues to be considered in deciding on whether to introduce a specialist SGBV court and implementing the chosen model.

1. Assessing the Problem at Local Level

Prior to deciding on the approach to be adopted to deal with cases involving SGBV, a system-wide audit should be conducted to determine needs. The following information should be gathered at a local level, for the community as a whole and for each local court:

- **Number of SGBV cases per annum**

The availability of this data at a local level will be dependent upon existing practices. Where data is not already collated a short period of data collection (e.g. one calendar month) will allow information to be gathered on both the number and nature of SGBV cases.

- **Length of time taken to reach disposal**

Once again this data may already be available and if not, a short period of data collection will be necessary. The importance of minimising the time taken to deal with Sgbv has been highlighted in all of the evaluations of specialist domestic abuse courts in the UK. An additional reason for measuring the time taken to reach disposal is to allow monitoring of the success of the chosen model.

- **Number of convictions**

Data on the number of convictions secured using the standard criminal justice system should be collated to provide information on the current system and a base line against which to measure the convictions secured under a specialist approach.

- **Number of and reasons for case attrition**

Data on case attrition is again required to provide information on impact of current approach and a base line to measure the impact of the specialist approach.

- **Availability of support services for victims**

An examination of the current support services for victims of SGBV cases is necessary. In addition, it will be useful to examine whether either agency has capacity to increase the support offered to victims, both the amount and the nature of the support offered. There should also be some assessment of the expertise of the staff of these agencies in dealing with victims of SGBV and any obstacles to assistance being offered, e.g., rules on disclosure. Information on any other sources of support, currently being utilised should be collated.

2. Identify Key Stakeholders and Develop a Steering and Implementation Group

The membership of this group will vary according to the court and its caseload. It would typically involve representatives of those groups working on SGBV as FBO, CBO, CSO, State agencies, association of judges and prosecutors, women organizations, judges, UN agencies, bilateral partners. Senior representatives of key stakeholder organizations should be involved in this group as their authority will help to secure the commitment of their staff and they will be able to make needed protocol changes, identify staff, obtain funding and provide public support for the project. In some areas, these senior administrators may lead the planning process or may initiate the process and delegate detailed planning to others. The steering and implementation group will be responsible for deciding on the type of specialist approach to be adopted and drafting relevant operational protocols. The steering and implementation group may also be responsible for carrying out all of the tasks listed below, or they may pass some of these tasks onto the operation group.

3. Determine Goals and Priorities of the Specialist SGBV Response

This should be decided by the steering and implementation group and informed by a consideration of the values and principles governing a specialist response to SGBV.

4. Review Impact of Ongoing Justice Reforms.

This review should consider whether the benefits of ‘fast-tracking’ cases will be achieved as a result of the summary justice reforms and what the impact of these reforms will be on the handling of SGBV cases.

5. Resource Implications.

Factors that need to be taken into account in considering the resource implications of implementing any particular type of approach include:

- ✓ Staff resources – each of the key stakeholders should consider the staffing resources required to fulfill their role in the specialist response. In terms of criminal justice personnel, this will include sheriffs, court clerks, procurator(s) fiscal depute and police. Staffing requirements will be dependent on the type of specialist model chosen.
- ✓ Training of all staff associated with court. This training should ideally be multi-agency to encourage a shared understanding of SGBV and knowledge of the role and responsibilities of the key stakeholders. Separate judicial training may be deemed appropriate although there might be benefits from judges and prosecutors of other jurisdictions being included in inter-agency training.
- ✓ Scheduling of court business. The type of scheduling required will depend on the model of specialist court chosen. The impact of the introduction of the specialist response to SGBV on the scheduling of other court business should be considered.

6. Determine Staffing Needs of Court and Agency Partners.

The importance of key stakeholders being members of the steering and implementation group is illustrated in the fulfillment of this task. The adoption of a specialist response to SGBV will impact on all key stakeholders. However, depending on the model adopted and the protocols developed, this will have varying consequences for staffing levels, responsibilities and training. After deciding upon a specialist court model, caseload type and volume, the steering and implementation group should determine the number of court and partner staff needed to handle the caseload effectively; the necessary qualifications for such staff; whether existing staff could fill these positions or if new staff require to be recruited. The staffing should emphasize the needs of victim and the provision of independent victim advocacy personnel.

7. Identify Obstacles to Implementation.

The steering and implementation group should attempt to identify all obstacles to implementation and, where possible, anticipate solutions. Examples of obstacles that may be encountered include:

- 1) Lack of commitment from all relevant agencies
- 2) Lack of capacity within existing provision of staff to accommodate different handling of SGBV cases.
- 3) Lack of resources to support victims/witnesses.

Some tools are available: stakeholder analysis, situational analysis, budget analysis and cost-benefit analysis may help to identify the main obstacles to implementation.

8. Choose Model of Specialist Provision to be Adopted.

The options available to the steering group are outlined in section on three models of specialist SGBV response. The decision would be based on the assessment of available resources.

9. Access Available Resources and Explore Options for Additional Funding.

A highly effective SGBV court or mechanism may be implemented without substantial additional resources or funding. As the same numbers of SGBV cases are being processed under the specialist model, rather than being scattered throughout the system, implementation may involve a reorganization of caseloads rather than additional personnel in some agencies. Where needed, designing resource mobilization strategy would help to get additional funds as staffing may have considerable budget implications.

10. Develop Written Protocols for Court and Multi-agency Co-ordination.

The steering and implementation group should work with key stakeholders to draft written protocols that outline:

- ✓ the roles, responsibilities and commitments of each partner;

- ✓ the means by which each stakeholder will provide information and communicate with the steering and implementation group, the operation group and the court; and the standards to which each stakeholder will adhere.

Written protocols governing the operation of the steering and implementation group and the operation group, risk assessment and risk assessment hearing, information sharing amongst key stakeholders, identification and processing of cases, victim advocacy services and the respective roles of this agency with pre-existing victim and witness services should be drafted. When appointed, victim advocates should review all protocols with a view to ensure that they do not compromise victim safety.

11. Identify and Access Information Systems.

The steering and implementation group should identify means whereby information can effectively be shared with the specialist court. This applies to the sharing of information between the specialist court and other courts dealing with related matters, e.g. civil protection orders or bail. Where possible existing systems should be utilized for this purpose. In the event of electronic systems not being available, an alternative method of information gathering should be developed.

12. Institute a Data Collection/Evaluation Plan.

To measure success and make necessary changes, data should be collected from the time the specialist domestic abuse response is launched. There must be protocols for data collection by the court and key stakeholders and an evaluation plan that specifies who will carry out the evaluation, how they will obtain the data and what outcome measurements will inform the evaluation process.

13. Conduct SGBV Training for All Partners.

Training on SGBV and the roles of key stakeholders, should be initiated by the steering and implementation group and continue throughout the implementation and life of the court. This training should be multi-agency.

14. Develop a Phase-in Plan for Caseload and/or Services.

The steering and implementation group should consider whether it is appropriate to develop a phase-in plan for the specialist approach that is adopted. An effective strategy may be to plan a number of phases for project implementation that ensure that each phase is fully implemented before moving on to the next.

15. Establish an Operation Group.

This group will deal with issues that arise once the specialist response to SGBV is operational. Membership of the group and written operational protocols should be decided, including regularity of meetings.

CONCLUSION.

This paper has tried to look at special mechanisms as a mean to speed-up the processing of SGBV cases. We actually recognize all the efforts made by all concerned parties in member states to handle these cases but more holistic actions need to be undertaken to address the complexities of this serious issue. We explored and highlighted lessons learned, best practices and challenges encountered in various settings to give a broad worldwide picture of what works and what does not.

We also strived to identify the key components of a specialist judicial response to SGBV. These key elements should be considered once any relevant authorities decide to establish a special court, special sessions or, at minimum special procedures. We have also indicated there are various models of special responses to SGBV cases and variable degree of specialization.

We tried to sketched well known models framework as to allow member states to choose the suitable adapted model to their own needs and expectations. We always sketched their main features, their advantages and disadvantages in order an informed choice when it comes to establish any special legal mechanism. The last section outlines guidelines made up of key issues and detailed steps to consider and reflect on when it comes to the momentum of establishing special courts, special sessions and special procedures.

As noted at the outset of this paper, one of the key reasons for implementing a specialist approach to handling SGBV cases is to send a strong particular message to perpetrators that such offences will be taken very seriously by courts and in this way to seek reducing re-victimization and re-offending.

The campaign aimed at ending impunity against SGBV in Great Lakes would probably not success without a very strong commitment, holistic approaches, coordinated community response and innovative and efficient ways to deal with the most complex issues of our times.

These guidelines rather than being prescriptive or absolutely normative, are designed to aid court practitioners, prosecutor authorities, police at local level with the process of identifying whether a specialist approach is required within their area and if so, to provide guidance on the selection and establishment of the most appropriate approach for their local circumstances.

Annex 1: Legal working definitions.

Although there is no single definition or agreed understanding of “ a special court, or special session and special procedures”, we offer here some working definitions that can capture the meaning of these special responses toward SGBV cases and their differences with ordinary courts.

As a matter of clarity and consistency, special courts are not a new model in court administration around the world. Special courts and procedures exist for decades in most countries in the world. For an illustration, for commercial matters, many countries have established special courts or chambers within the judiciary for speed up the processing of commercial issues, so as to enhance the business climate in countries. Similarly, states have established labor courts or chambers where representatives of business and labor unions sit alongside with qualified judges to help understand the needs, expectations and complexities of labor cases.

Under “specific circumstances” and specific features of certain cases, court management officers or legislatures can enact specific laws, regulations and directives to set up special courts or, if they deem it necessary and where it is relevant, special procedures. For some countries, the specific legal and institutional does not allow to provide with a law on special court and, instead, resort to special procedures.

- **Special courts: what they are?** In general, the best-known courts are courts of general jurisdictions which have unlimited trial jurisdiction, both civil and criminal within their jurisdictional area. Appellate courts of general jurisdictions review the decisions of inferior courts and are typically either courts of appeal or supreme courts.

Conversely, special courts include all courts of limited and specialized jurisdiction that are not courts of general jurisdictions or appellate courts. A special court generally addresses only one or a few areas of law or has only specifically defined powers. Special courts exist for both civil and criminal disputes. Cases tried in special, limited-jurisdiction criminal courts may be reheard in a general-jurisdictional trial court.

Special courts differ from general-jurisdiction courts in several respects. First, cases are more likely to be disposed of according a set of flexible rules designed to expedite the handling of cases. Cases are usually heard more rapidly than in a court of general jurisdictions. Rules of evidence may be altered to allow not only corroboration and proof beyond any reasonable doubt.

They do not follow the same procedural rules usually applicable to general-jurisdictions courts. In SGBV cases, the best-known courts that have inspired this paper are domestic violence courts in Canada, USA, Australia and UK. They are known as dedicated domestic violence special courts. These courts assigned cases to specialized judges, special prosecutors, specific screening of the cases, specialized intake units and victim assistance services.

- **Special procedures:** Criminal law is usually composed of common procedures applicable to all criminal cases and special procedures designed to certain categories of crime, of perpetrators and

victims according to the criminal policy applicable in any country. These procedures are clearly stated in the law or code of criminal procedures.

Special procedures often enacted under special circumstances to address any pressing social, economic and policy issues with the purpose of speed up the process of handling cases by judicial organs.

Concretely, these special procedures follow certain rules of evidence, appearance in court, hearing process, case screening, case assignment, risks assessment protocols, adjournment procedure, protection orders for specific victims, disclosure of sensitive and private information to non-judicial bodies, litigation proceedings, bail management, custody measures, abbreviated trials, immediate trials, specific intake units...

These specific procedures usually derogate to general and common procedures of criminal law. The special procedures are known in some countries as summary procedures for minor offences or fast-tracking systems. Fast-tracking systems are one modality of special procedures as it lists on specific calendar or docket, hear cases within a speedy timeline, delivers judgment on a mandatory average of six or eight weeks depending on the nature and the complexities of the case.

- **Special sessions:** in some remote rural areas, victims or judges find it hard to follow or hear cases or when the caseload listing does not allow fast management of the cases, case managers resort to grouping specific cases to hear them at a particular day per week or per month. By any account, the advantage is to combine all SGBV cases in order to get all available resources handled at one place and at the same time.

Mobile courts existing in DRC or in Burundi(travel courts or in French “itinérances” in land issues) are one modality of special sessions. Usually, special sessions do follow the common rules of case management similar to courts of general jurisdictions. Judges are not necessarily specialized in the cases they hear and process. In UK or USA, cluster systems are one another modality of special sessions.

One of the most publicized by worldwide media is the case of a colonel in Fizi in DRC. The recent sentencing of a military officer, colonel, in Fizi in DRC shows the tremendous benefit of special session in rural areas to get all the resources including senior staff in one rural area. It also sends a strong message to the large community suffering from abuse of perpetrators state takes SGBV very serious. By this one example, judiciary also shows its leadership over these shameful abuse of power.

Annex 2: References and materials used.

- **American Bar Association**, Standards of practice for lawyers representing victims of domestic violence, sexual assault and stalking in civil protection, 2007, internet access at:
[Http://www.abanet.org/domviol/docs/Standardscommentary.pdf](http://www.abanet.org/domviol/docs/Standardscommentary.pdf).
- **American refugee committee(ARC)**, Gender based violence legal aid: a participatory toolkit, 2005.
- **Askin, Kelly**, Fizi Mobile court in DRC: rape verdicts, 2010, [Http://www.rnw.nl/africa/article/Fizi-mobile-court-rape-verdicts](http://www.rnw.nl/africa/article/Fizi-mobile-court-rape-verdicts).
- **Beichner, Dawn and al.**, Examining the impact of a specialized prosecution unit, 16 criminal Justice policy review, 461-498(2005). Internet access at:
<http://www.sagepub.com/spohnstudy/articles/2/Beichner.pdf>.
- **Commission on legal empowerment of the poor(with UNDP)**, Making the law work for everyone, Volume I, (2008).
- **Convention on the elimination of all forms of discrimination against women, (2008)**. Accessible at:
<http://www.un.org/womenwatch/daw/cedaw/>
- **Convention on the elimination of all forms of discrimination against women**, General recommendations,(1992),Internet, <http://www2.ohchr.org/english/bodies/cedaw/comments.htm>
- **Cook and al.**, Evaluation of specialist domestic violence courts/fast track systems, (2004), internet at:
<http://wlv.openrepository.com/wlv/handle/2436/22612>.
- **Crown Prosecution service**, Domestic violence court program resource manual, March 2006, England and Wales, 75pages.
- **Dag MacLeod and Julia Weber**, Domestic violence courts: A descriptive Study(2000), 70 pages, Sage publication, Miami, USA.
- **Heiling, Julie**, Specialized Criminal domestic violence courts, internet access at
:<http://www.vaw.umn.edu/documents/helling/helling.html>.
- **Human Rights Watch**, Zambia, thematic report, Curbing sexual and gender based violence, 2008.
- **Muriel Fergusson**, Evaluation of domestic violence pilot project, Moncton provincial court and Fredericton Court, Center for Family violence research, Moncton, New-Brunswick, Canada, 2010.
- **National prosecuting authority of South Africa**, uniform protocol for the management of victims, survivors, and witnesses of domestic violence and sexual offences. Access internet at:
<http://www.npa.gov.za/UploadedFiles/%20document.pdf>.
- **Nadine Jubb**, Regional Mapping study of women's police stations in Latin America, Brazil, 27(2008).
- **Praxis international**, safety Audits: Home, (2010).
http://praxisinternational.org/praxis_safety_audits_home.aspx.
- **Sack, Emily**, Creating a Domestic violence Court: Guidelines and best practices, May 2002, California state court management.

- **South Africa National Prosecuting Authority**, Thuthuzela: Turning Victims into Survivors, (2009).
Internet access: [http://www.npa.gov.za/UploadedFiles/TCC Brochures August 2009.doc](http://www.npa.gov.za/UploadedFiles/TCC%20Brochures%20August%202009.doc).
- **United Nations**, Handbook for legislation on violence against Women, (2010),
<http://www.un.org/womenwatch/daw/vaw/handbook/women.pdf>.
- **UNICEF**, South Africa: Thuthuzela care centre, (2010),
http://www.unicef.org/southafrica/hiv_aid_998.html.
- **UN. Women**, Domestic violence legislation and its implementation, ICGLR documentation centre, 2009,
pp.44-45.
- **Walker, S.P.**, The South African court for sexual offences, 26 International Journal of law and
psychology, 73-85(2003).